

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

No. 73

UNITED STATES, APPELLANT,

vs.

MISSISSIPPI, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI

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IV. January 24, 1962 through February 22, 1962

The use of Section 16 resumed on January 24, 1962, when a Negro cab driver attempted to register. He was rejected.

Two white teachers and a white student also received Section 16 on January 24, 1962 and were registered. Thereafter until February 23, 1962, the registrar alternated between using Section 1 and Section 16 with 11 of the 15 Negroes, or 73%, getting Section 16 and only 80 of 139 whites, or 58%, getting Section 16. There are 13 whose race is not certain during this period. Seven of the 13 received Section 16. The breakdown by day is as follows:

[fol. 1522]

Date	Race	Action	Section
Jan. 24, 1962	1 Negro	Rejected	16
	3 white	Accepted	16
Jan. 25, 1962	1 Negro	Accepted	1
	7 white	Accepted	1
Jan. 26, 1962	1 white	Accepted	1
	5 white	Accepted	16
	1 Negro	Rejected	16
Jan. 27, 1962	4 white	Accepted	1
Jan. 29, 1962	1 Negro	Rejected	16
	17 white	Accepted	16
	1 race unk.	Accepted	16
Jan. 30, 1962	19 white	Accepted	16
Jan. 31, 1962	3 Negro	Rejected	1
	33 white	Accepted	1
	4 race unk.	Accepted	1
Feb. 1, 1962	2 Negro teachers	Accepted	16
	3 Negro	Rejected	16
	18 white	Accepted	16
	2 white	Rejected	16
	2 race unk.	Accepted	16
Feb. 2, 1962	4 white	Accepted	16
	1 race unk.	Accepted	16
Feb. 3, 1962	4 white	Accepted	16
	1 race unk.	Accepted	16
Feb. 5, 1962	1 white	Accepted	16
Feb. 6, 1962	1 white	Accepted	16
Feb. 7, 1962	1 race unk.	Accepted	16
Feb. 8, 1962	2 white	Accepted	16
Feb. 9, 1962	1 Negro	Rejected	16
	1 white	Accepted	16
Feb. 10, 1962	1 white	Accepted	16
Feb. 13, 1962	1 Negro	Rejected	16
Feb. 14, 1962	1 Negro	Rejected	16
	1 white	Rejected	16
Feb. 16, 1962	1 white	Accepted	1
	3 race unk.	Accepted	1
Feb. 17, 1962	1 white	Accepted	1
Feb. 19, 1962	1 Negro	Rejected	16
	1 white	Accepted	16
Feb. 22, 1962	2 white	Accepted	1

On February 23, 1962, the Registrar began the use of Section 21 on habeas corpus. On this date one Negro was rejected and two white persons were accepted. Sections 21 and 1 were used alternatively until April 3, 1962, when the Registrar returned to Section 1 as Negro efforts to register ceased.

V. February 23, 1962 through April 2, 1962

During this period *all* 6 Negroes who applied to register were given Section 21 on habeas corpus and all were rejected. During this same period only 9 of 24 white [fol. 1523] persons were given Section 21; the other 15 of the 24 white persons received Section 1. There were 5 persons whose race is uncertain who received Section 1. The breakdown by day is as follows:

Date	Race	Action	Section
Feb. 23, 1962	1 Negro	Rejected	21
	2 white	Accepted	21
Feb. 26, 1962	1 white	Accepted	1
	1 race unk.	Accepted	1
March 1, 1962	3 white	Accepted	1
March 2, 1962	1 white	Accepted	1
	1 race unk.	Accepted	1
March 3, 1962	3 white	Accepted	1
March 6, 1962	2 white	Accepted	1
March 7, 1962	1 race unk.	Accepted	1
March 10, 1962	1 white	Accepted	1
March 12, 1962	1 white	Accepted	1
March 13, 1962	1 race unk.	Accepted	1
March 17, 1962	2 white	Accepted	1
	1 race unk.	Accepted	1
March 19, 1962	1 Negro	Rejected	21
March 20, 1962	2 white	Accepted	21
March 21, 1962	1 Negro	Rejected	21
March 22, 1962	1 white	Accepted	21
March 23, 1962	3 Negro	Rejected	21
March 24, 1962	1 white	Accepted	21
March 26, 1962	1 white	Accepted	21
March 27, 1962	1 white	Accepted	1
March 30, 1962	1 white	Accepted	21
April 2, 1962	1 white	Accepted	21

From April 3, 1962, until this suit was filed, the Registrar reverted to Section 1 as no Negroes were coming in to register.

VI. April 3, 1962 through August 28, 1962

There were 77 white applicants and 12 whose race is not certain. All received Section 1 and all were registered.

On August 31, 1962, the Registrar used Section 1. On September 5, 1962, he gave Section 21 to a white college student and then reverted again to Section 1 for the next 60 applicants until November 16, 1962, when he used Section 5 for the first time.

[fol. 1524]

(b) Assistance

(1) Assistance on Question 19

Section 1 of the Mississippi Constitution is worded as follows:

The powers of the government of the state of Mississippi shall be divided into three distinct departments, and each of them confided to a separate magistracy, to wit: those which are legislative to one, those which are judicial to another and those which are executive to another.

This section was given to 563 applicants registered to vote in Lowndes County from November 18, 1960-March 1963. Five-hundred and forty-six of the 563 gave substantially similar interpretations. The interpretation which appears almost verbatim on about 185 of the forms is as follows:

The powers of the government are divided into three separate departments. The legislative makes the laws, the judicial interprets the law, the executive enforces the law.

This answer, with certain specific alternatives, appears on all but about 17 of the 563 applications of persons who received section 1. Many of the answers are not in sentence form but are merely "Legislative makes laws—judicial interprets laws—executive carries out (enforces) laws". Many of these persons were unable to correctly

spell the standard answer. The seventeen persons who [fol. 1525] did not give the standard answers are:

Name	Form #
Nabon, Patricia Louise	LO-3236
Box, Charles Edwin	LO-3238
Bond, Charles Wilson	LO-3338
Burch, Barbara Ann	LO #3327
Astin, Susan Robena	LO #3328
Henderson, Joseph Calvin	LO-3280
Hayalott, Emma Sue Reid	LO-3320
Furr, Dr. Ray A.	Lo-#2913
Stephenson, Virginia Ruth	LO-3335
Hughes, Howard Everett	LO #2528
Gardner, Eric K.	LO #2597
Jones, Cecil Baron Jr.	LO-3337
Christopher, Arthur Clifton	LO-3352
McDaniel, Margaret S.	LO-3359
Ford, Robert Eugene	LO-3429
Mendonca, Alfred Gilbert	LO-3446
Lollar, Robert Leon	LO-3153

146 of the 563 persons who received Section 1 and were registered to vote used an introductory clause such as "the powers of the government are divided into three separate departments."

The chart below lists the number of times particular words were used in the introductory clause:

Powers (of the Gov't.) ¹¹ Gov't. ¹²	} are DIVIDED ¹³
Separate ¹⁴ into three distinct ¹⁵	
	} parts ¹⁶ departments ¹⁷ branches ¹⁸

Forty of the introductory clauses use the verb "to be", instead of the passive voice illustrated above. While the responses using the verb "to be" almost all used the words displayed in the sentence above, they did not follow [fol. 1526] as closely to a particular form. The most common form, "the three departments of the government are . . .", occurred ten times.

Five-hundred and forty-six of the 563 gave as their interpretation of Section 1 an explanation of the functions of each of the 3 branches of government and 400 of 546 did not explain the section in terms of separation of powers. Including in this 546 are the 146 who also used a standard introductory clause such as "the powers of the government are divided into three separate departments".

An analysis of the explanations of the functions indicates that the 546 gave a standard interpretation.

In describing the functions of the legislature 469 of the 546 used the word "make" in some form of the expression "makes the laws".

In describing the functions of the judiciary, 391 of the 564 used the word "interprets" in some form of the expression "interpret the laws."

In describing the functions of the executive 277 of the 564 used the word "enforce" in some form of the expression "enforces the laws." Another 197 used "carries out" or "administers" the laws. A third group of "44" used the word "executes" in some form of the expression "executes the laws".

[fol. 1527]

Section 16

Section 16 is worded in the following way: "Ex post facto laws, or laws impairing the obligation of contracts, shall not be passed."

There were 102 registrants who were asked to interpret Section 16 of the Mississippi Constitution. Of these, fourteen registration forms (13 white, one unknown) have the following general form—"No law can be passed which would void any contract which is in effect." Eighteen interpretations of Section 16 (15 white, 3 unknown) have the following general form: "No law shall be passed that would void a contract which is already in force." The distinguishing features of these two standard types of responses are their respective endings, "in effect" and "in force." Registrar L H B signed eight of the "in force" registration forms and only one of the "in effect" forms.

In addition, there were nine registrants (8 white, one unknown), who included the words "impair" and "void" in their interpretations of Section 16. Six of these were signed by registrar T. E. Wiggins although he signed less than 1/3 of the total forms requiring an interpretation of Section 16.

Section 21

"The privilege of the writ of habeas corpus shall not be suspended unless when in the case of rebellion or invasion, the public-safety may require it, nor even without the authority of the legislature."

The interpretations of this section follow a definite pattern. Of the total fifteen (13 white, 2 unidentified) responses, ten (all white) specifically mention the right of a [fol. 1528] hearing, which does not appear in the actual wording of the section. In eight of these ten responses "hearing" is followed by the words "on the legality of," or a substitute phrase containing some form of the word legal and meaning the same thing, such as "hearing on whether he is being legally held."

Of the five respondents who did not follow the above form, four were students, the other a member of the Air Force, indicating that perhaps they did not need help in interpreting Section 21.

Section 5

Section 5 of the Mississippi Constitution reads as follows:

All political power is vested in, and derived from, the people, all government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.

Two things are striking about the interpretations to section 5; a standard approach and the use of a particular phraseology. The standard approach is indicated by the fact that 90 (57 white, 32 unidentified, one Negro) of the 127 interpretations of section 5 mention the idea of people being represented in government. Of these, 71 specifically use the word "elect."

The striking phraseology was based on the expression "government of the people, by the people, and for the people." Forty-five respondents used some form of this phrase. Twenty-six abbreviated the expression to two parts as, for example, government by and for the people. Nineteen (13 white, 6 unidentified), however, used the entire expression.

[fol. 1529]

Section 14

Section 14 of the Mississippi Constitution is worded as follows:

No person shall be deprived of life, liberty, or property except by due process of law.

The interpretations of Section 14 again offer a striking example of standard approach and similar phraseology. The standard approach is indicated by the emphasis on "trial" as demonstrated by the fact that the noun "trial" or the verb "to try" is used in 162 interpretations. The word "court," or in a few cases a synonym, is used in 24 additional responses, leaving only 24 responses which are not specifically in terms of judicial process.

The recurring use of particular expressions is also striking. A chart of these expressions and the number of times they occurred, broken down as far as possible by race, is given below:

- 32—Trial by jury (16 white, 16 unidentified)
- 20—Court of law (17 white, 3 unidentified)
- 12—Trial by law (9 white, 3 unidentified)
- 15—Fair trial in/by/of court (10 white, 5 unidentified)
- 6—Fair trial by law (3 white, 3 unidentified)
- 17—Trial in/of/by court (10 white, 7 unidentified)
- 8—Day in Court (7 white, 1 unidentified)
- 10—Combinations of above (8 white, 2 unidentified)

Section 22

"No person's life or liberty shall be twice placed in jeopardy for the same offense; but there must be an actual acquittal or conviction on the merits to bar another prosecution."

Registrants were asked to interpret this section of the Constitution on two days, 1-17-63 and 1-31-63. There were 33 forms requiring an interpretation on 1-31-63 and 11 on 1-17-63. Of the 33 forms from 1-31-63, ten followed a definite pattern. This pattern, in turn, can be divided into two parts—"no person can be tried for the same crime twice if . . . and no person can be convicted of the same crime twice." Three of the ten standards answers

followed this first form, and seven the second. All responses which followed this general form were made on the same day, 1-31-63.

In addition, there were two cases (involving four registrants) in which husband and wife made responses to question 17 which were very nearly identical.

Certain instances of the concentrated use of a specific phraseology on a specific day make the use of these expressions appear even less accidental. For example, there were five interpretations given to section 14 on 2-8-63. Two of these were fair trial-court and two were trial-court. Thus, four of the five responses on a particular day made use of the same or a very similar expression.

A similar example of the concentrated use of a certain phraseology is the use of "trial by law" in interpretations to section 14. This expression was used twelve times. Its use on two days, 1-26-63 and 1-29-63 accounts for nine of these times. Out of the total 238 times which section 14 was interpreted, fourteen interpretations were made on 1-26-63 and thirty-one on 1-29-63.

[fol. 1531] (2) Assistance on Question 20

Question 20 requires registrants to set forth their understanding of the duties and obligations of citizenship under a constitutional form of government. Responses to Question 20 followed the pattern of 19. Certain duties were constantly mentioned. For example the idea of voting was mentioned, quite naturally, in most responses. But it was usually mentioned in a very particular way. Such expressions as qualify to vote, register to vote, vote in all elections, vote for the candidate best qualified, and exercise the privilege to vote occurred very often. Also, the constant use of the word "qualify" in the expression qualify to vote, vote for the best qualified, and qualify to take part was very striking. Other expressions, such as government of the people, for the people, and by the people, keep up with current events, study and understand your form of government, occurred frequently.

There was also a standard approach to expressing the idea of obeying the laws and supporting the government. The words maintain, protect, support, uphold, obey, abide

by occurred constantly in combination with the words law, constitution and government.

[fol. 1532] The following is a summary of standard responses to Question 20:

Recurring expressions used in answering Question 20 (includes responses including more than one such expression)

I Qualify—Vote (Total 118 white; 35 race unknown;)

- A. Qualify to vote (70w; 11un;)
- B. Qualify and vote (6w; 1un;)
- C. Qualify—self to/and vote (21w; 13un;)
- D. Qualified voter or qualified to vote (8w; 1un;)
- E. Special Identicals including "qualify to vote" (4w; 12un;)
- F. Very Similar (9w; 7un;)

II Qualify—take part (Total 25 white; 4 race unknown;)

- A. Qualify—self to/and take part/participate (14w; 3un;)
- B. Qualify to/and take part/participate (11w; 1un;)

III Elect Best Qualified (Total 64 white; 22 race unknown;)

- A. Vote for Support Elect —Candidate best qualified best qualified candidate (24w; 5un;)
- B. Elect Support Vote for —People/person best qualified best qualified people/person —(17w; 9un;)
- C. Vote for individual people man nominees —best most —qualified (10w; 3un;)
- D. Similar (13w; 5un;)

IV Elect Qualified (Total 9 white; 5 race unknown;)

- A. Elect —qualified
- B. Vote for person officials —(9w; 5un;)

[fol. 1533] V Current Events (Total 57 white; 8 race unknown;)

- A. Keep up with Current Events (43w; 7un;)
- on
- B. Keep Informed as to—Current Events (14w;)
- of

VI Government of the people, by the people, and for the people (Total 18 white; 1 race unknown; 1 Negro;)

VII Special Identicals

understand Govt.
Read and study —Const. (Total 9 white; 1 race unknown)
 laws

9 of these responses were signed by assistant registrar LHB, who only signed about one-tenth of the total registration forms. Also, 9 of these responses were dated between 1-20-62 and 1-31-62.

[fol. 1534] Evidence of assistance in filling out registration forms is demonstrated by pairs of nearly identical responses occurring in the same day. These responses can be differentiated from the standard responses by the degree of uniqueness which accompanies their similarity. Of the ten pairs of responses below, eight appear to be husband and wife combinations. These pairs of nearly identical answers are arranged below chronologically for question 19.

Section 1

Name, date and race
(1) Velma Corinne E.
Edwards
1-18-61
White

Q. 19 —
legislature—they make the laws. Judicial—they interpret the law. executive—He inforses the law

Q. 20
Qualify to vote and suport the candidate best qualified. To obey the law and keep advised of current affairs.

Frances R. S. Sanders
1-18-61
White

Q. 19
The legislative department makes the laws, The judicial department interoupts the meaning of the law and the executive departments enforce the law.

Q. 20
Qualify to vote and support the best candidate best qualified. To obey the law and keep informed of the current events.

- (2) Girtie M. E. Sennett
1-28-61
White

Q. 19

Legislature Makes the Laws
Judicial—Interpret the laws
Executive—Inforces the law.

Q. 20

To uphold the government
To Obey the laws.
Qualify to Vote.

[fol. 1535]

Name, date and race
Vallie D. Sennett
1-28-61
White

Q. 19

Legislative Makes the Laws
Judicial Interpret the
Laws
Executive Inforce the Law.

Q. 20

uphold the Government
Obey the Law.
Qualafy to Vote

- (3) Roscoe Hickey
1-31-62
White

Q. 19

Legislative — Makes our
Laws
Judicial Interpret the Laws
Executive Carries out the
Laws

Q. 20

Upholds the Laws, Voting—
Suppot government & to
keep informed on current
events.

Mrs. Walterine W.
Hickey
1-31-62
White

Q. 19

Legislative Makes our laws.
Judicial—Interpret the laws
Executive—Carries out the
laws.

Q. 20

Upholds the laws, voting.
To support the government
and keep informed on cur-
rent events.

- (4) Wylodine Hill Neyman
11-13-62
White

Q. 19

The legislative department makes the laws. The judicial interprets the laws. The executive enforces the law.

Q. 20

Should obey the law & qualify to vote. Should take an active part in our government, and study and understand our government.

- Mattie Sue Hill Brown
11-13-62
White

Q. 19

The legislative department makes laws. The judicial interprets the laws. The executive enforces the laws.

Q. 20

Should qualify to vote. Should obey the laws study & understand our government. Should take an active part in our government.

[fol. 1536]

Section 16

- Name, date and race
(5) Emmitt T. Chunn
1-29-62

Q. 19

A Law Shall not Be passed that would void a contract already in force.

Q. 20

qualify to vote. go to the polls and vote. take Part in the Gov. try to understand the Gov. and take Part to do what I Believe is right

Margaret Mae R. Chunn
1-29-62
White

Q. 19

A law shall Not be passed that would void a contract enforce.

Q. 20

qualify to vote go to the polls and Vote take part in the Gov. try to Understand the Gov. & take part to do what I beleve is Right.

Section 14

(6) Elebert Lee Atkins
1-19-63
White

Q. 19

No person can be sentenced or sent to prison except by the court of low.

Q. 20

To up holed the low & to support aur govenment to the best af aur ability and to help protect it from all em emies and elect good officers.

Vena Stockman Atkins
1-19-63
White

Q. 19

No person can be sentenced or sent to prison except by the court of low.

Q. 20

To uphold the low & to support our government to the best of our ability and to help protect it from all ememies.

[fol. 1537]

Section 14

Name, date and race

- (7) Laura Bell D.
Pennington
1-30-63
White

Q. 19

This entitles me to a fair trial.

Q. 20

I think we should obey the law, & let ourselves be governed by such—Vote for the best qualified person for office

Lecil Gray Pennington
1-30-63
White

Q. 19

This entitles Me to a fair trail.

Q. 20

Obey the law and let ourselves be governed by such—and elect the best qualified people to carry out these laws—

Section 30

- (8) Clovis Edward Bishop
3-31-62
White

Q. 19

A person can not be put in prison for a debt a person can go to prison forway he makakes a debt is unlawful.

Q. 20

We shall obay the Law We should support this kind of gov. Help elect good officers.

Martha Ann B. Bishop
3-31-62
White

Q. 19

A person can not be put in imprisonment for owing a debt. A person can be put in prison for making debt under false pretense.

Q. 20

We should obay the law we should protect this form of govt. help elect good officers

Section 22

(9) Mary Elaine Millican
Ward
1-31-63
White

Q. 19

If a Person is convicted or acquitted of a pecific crime he cannot be prosecuted a second time for the same offense.

Q. 20

Pay your poll tax register to Vote take a part in all political affairs obey the laws uphold the rights of the constitution.

[fol. 1538]

Section 22

Name, date and race
Jarvis B. Ward

Q. 19

That a person is conviction or acquitte in a crime he cannot be prosecuted again for the same thing.

Q. 20

The right to Vote Pay your Pole Tax obey the Laws Take a part in all Political affairs up hold the rights of the Constitutional of the Government.

Section 5

(10) A. C. Gilliland
1-21-63
White

Q. 19

All Political Powers in vested in by the People and for the People for all People.

Q. 20

To register & vote & to put people who we think are bettr for our offices. To support the constitution. & all laws that are sent down & to obay all orders.

Evelyn P. Gilliland
1-21-63
White

Q. 19

All political power is by the people for the people. an of the people.

Q. 20

To register an vote, and vote people in office, who are better suited for office. To support the constitutin that are set down & to obey all orders.

[fol. 1539]

Part III

The following 14 Negro applicants were denied registration on the basis of their interpretations of the sections of the Constitution which were assigned to them, or on the basis of their statements of the duties and obligations of citizenship.

Nina L. Carter
#7
1-7-56
Maid

Q. 19

The powers of the government of the state of Mississippi are devided as following. Legislative, judicial and executive to one another.

Q. 20

I understand that a legislative form is laws made by the legislature to determine what is best for our state and judicial, executive to each and every citizen to express his own opinion of whom his thinks is best to perform those duties.

Interpreted
Sec. 1

Carter, Willie J.
#34
1-12-56
Labor

Interpreted
Sec. 30

Carter, Nina L
#35
1-14-56
Maid

Interpreted
Sec. 30

[fol. 1540]

Murray, Vernice M.
#69
1-24-56
Teacher

Interpreted
Sec. 1

Q. 19

Constitution prohibit any imprisonment for debts.

Q. 20.

To be a good farther to love god. Therefore i believe my duty to my country to love, its and its constitution. To honor its flag to defend it against all emenies.

Q. 19

A person cannot be put in prison for debts which he has not paid. such as not sufficient funds in bank to cover checks as a guardian of a minor or be responsible for debts of money which he holds for others etc.

Q. 20

It is the duty of every citizen to love its State, support its constitution, obey it laws, respect its flag and defend it against all enemies and do all within his or her power to help in any way they can to enforce these laws.

Q. 19

Legislative a body of law makers
Executive the head, a Governor.
Judicial enforce the laws, and Supreme Courts.

Q. 20

Obey the laws Respect and defend the flag . . . abide by and obey the Constitution of Mississippi and the Constitution of the United States.

Johnson, Archie Lee W.

#110

1-30-56

Teaching

Interpreted

Sec. 240

Q. 19

All elections by the people shall by ballot in order that the votes may be counted easy, and it will give the voter a chance to vote for whom he wants to vote for.

Q. 20

My understanding of citizenship is a person that has lived in the state for life on a long period of years and abided by all law of the state of Mississippi.

Kimbrough, Mamie

#541

1-30-57

Housewife

Interpreted

Sec. 240

Q. 19

As I understand elections by ballot is all the people of a certain precinct go to a designated place and cast a vote for a particular person whom they feel like can best serve the people.

Q. 20

As I understand a Citizen is one who first of all must be resident of the U. S. A. Should believe in the Constitution of the United States, and of the state in which he live. Should do all in his power to obey the laws of the land and the state in which he lives. He should do all in his power to help promote the general welfare of the people and his community. Take an active part in public affairs both civic and religious.

Kimbrough, Dejl
#559
1-31-57
Barber

Interpreted
Sec. 123

[fol. 1541]

Q. 19

Since he (the governor) is the head officer of the legislature (where the laws are made) and since he take a sworn oath that he will see to it that the laws are faithfully oboded it is his duty to see that they are properly executed.

Q. 20

I understand the obligations of citizenship to be a responsibility place on every person, such as; his duty in promoting aiding and sponsering any civil movement or enterprise that will make his community of nation better.

Wheadon, Augusta A.
#1826
7-3-59
Housewife

Interpreted
Sec. 1

Q. 19

Interpretation. The three distinct departments of State are 1. The governor is the chief magistrate. 2. The state legislature makes the laws. It is made of the state senator and state representative from the counties of the state. They meet and make the bills which become laws when properly voted on. The representative represent the people. The judicial department made up of the attorney General, Judges and lawyers intepret the laws.

Q. 20

Each citizen should be law abiding and help to uphold and protect the law, he should be loyal to the government.

Payton, Otis D.
#2951
1-29-62
Teacher

Interpreted
Sec. 16

Carter, Nina L.
#3102
2-14-62
Housewife

Interpreted
Sec. 16

[fol. 1542]

Q. 19

To me this means that laws allowing persons to brake a contract or not live up to the obligations of a contract shall not be passed.

Q. 20

To me the duties and obligations of citizenship under a constitutional form of government is that each citizen is responsible for his share of the obligations of the government.

Tha the local or state government shall not pass a law to change an agreement entered into by two or more persons.

Ex Post Facto law means a law that was made provious and can not be changed but can be acted upon. That you can not make a new law.

Q. 20

To listen, try to understand an abide by the laws Made by our government.

Carter, Nina L.
 #3114
 2-19-62
 Housewife

Interpreted
 Sec. 16

Q. 19

The local or state governments shall not pass laws that will change legal agreements previously entered into by two or more people.

Ex post facto is a law governing an agreement it will not change but act upon an agreement already made. The law will not make a new law to change.

Q. 20

The duties of a citizen is to learn, try to understnad and obey the laws of our governments.

Brown, Linward Lee
 #3167
 3-23-62
 Student

Interpreted
 Sec. 21

Q. 19

The citizen of a speedy trial by jury shall no be carrie away unless and extreme emergency nor withouth the approval of the state congress.

Q. 20

Each citizen under the form of government should be handle in the same form that of the person have been live in the United State all of his life.

Stalling, Eulice
#3168
3-23-62
Cab D.

Interpreted
Sec. 21

[fol. 1543]

Taylor, Vester, Jr.
LO #3169
3-23-62
Taxi Driver

Interpreted
Sec. 21

Q. 19

Every citizen shall be entitled to a quick trial by jury unless there are great pressures on the government from within or from without, nor ever without to the approval of the House and Senate.

Q. 20

Your duties as a citizen is to vote and keep laws & regist & pay poll tax I am obligations keep all laws and to.

Q. 20

I think my duty as being a citizen would be to live by the law. and do what the law say do and to try to keep my state one of the best states in the nation as well as my town in which I live.

Q. 19

The right to speedy trial by jury shall not be denied unless in case of extreme emergency nor without the approval of the state congress.

[fol. 1544]

Oktibbeha #34

Part I

A

The following Negro citizens of Oktibbeha County were not permitted to register to vote. The events described below occurred at the Circuit Clerk's office in Oktibbeha County.

- | | | |
|-------|--|--|
| 53016 | About
middle
of 1955
Refused
Henry-R | Went with wife to registrar's office to register. The registrar told him he had no application forms. He said he sent away for them but they didn't come. |
| 53016 | About
middle
of 1955
Refused
Henry-R | Went to Registrar's office in Starkville with wife. This was 2 or 3 weeks after first attempt. Registrar again said he had no application forms. |
| 53017 | About 1955
Refused
Henry-R | Went with husband to Registrar's office in Starkville to register. Told by Registrar that he had no application forms. Not allowed to register. |
| 53008 | 1958 or
1959
Rejected
Henry-R | Went with wife to Circuit Clerk's office. Told woman working in office he wanted to register. She said he would have to wait for the Clerk who was out. When Clerk came back he gave him a form to be filled out. When he had finished the Clerk said he didn't interpret section of Constitution, "to a point of law." Asked Clerk when he could come back. The Clerk said, "I don't give a damn if you never come back." |

- 53000 1958 or 1959 (Spring)
Not told
Henry-R
Went to Registrar's office alone. Mr. Henry and a white woman were working in the office. Read from a book with law in it. Had to come back 2 weeks later and face a Board of five people. Board said they had to see if he qualified as a good citizen. He was never notified of action taken.
- 53006 1959
Refused
Mrs. Henry-
Dep. Clk.
Went with wife to Registrar's office. Asked Mrs. Henry if he could register. She said, "See Mr. Henry, he walked down the street."

[fol. 1545]

Oktibbeha #34

Part I

A

- 53006 1959,
Summer
Refused
Mrs. Henry-
Dep. Clk.
Went to Registrar's office to attempt to register. Mrs. Henry was in the office and told him he'd have to see Mr. Henry who was out but would be back soon. Waited for a few minutes and then left.
- 53006 1959
Refused
Mrs. Henry-
Dep. Clk.
He and his wife went to registrar's office to try to register. Mrs. Henry was in the office and said they must see Mr. Henry who was out.
- 53018 1959 or 1960
Refused
Henry-R
Went to Registrar's office in Starkville. Asked Registrar, Mr. Henry, if he could register. Mr. Henry refused to let him fill out an application.
- 53011 1960
Refused
Henry-R
Registered since 1952 or 1953. Went to Circuit Clerk to see if he could have his registration status clarified so he could again vote in Osborn precinct where he lived. Mr. Henry said he would have to wait two years to vote in Osborn precinct.

53012 1960
Not told
Henry-R

Was registered in Mississippi since 1952 or 1953. Decided to apply again from Osborn precinct where she lived because she was told her name no longer on list of registered voters from Osborn precinct. Required to interpret a section of Mississippi Constitution. She wasn't told whether she passed or failed.

53011 1960
Rejected
Henry-R

Already registered since 1952 or 1953; this was known to Registrar, Mr. Henry. Filled out an application form so he could vote from Osborn precinct where he lived. Asked to interpret section of the Constitution. He was rejected.

53019 1960
Rejected
Henry-R

Went alone to Registrar's office to have his Beat changed. Registrar said his original registration was illegal. Had to fill out written application. Had to read a section of the Constitution dealing with due process of law. Then asked to write it from memory and interpret it. Copied date of application from old calendar. Registrar rejected application, saying, "It's wrong to start with."

[fol. 1546]

Claiborne Co. #39

Part I

A

The following Negro citizens of Claiborne County were not permitted to apply to register to vote or were delayed in their attempts to register to vote. The events described below occurred in the Circuit Clerk's office in Claiborne County.

- | | | |
|-------|---|--|
| 11014 | About 1956
Refused
Mrs. Hackett-
Dep. R. | Mrs. Hackett told her she had no application forms. |
| 11014 | Mid-Late
1950s
Refused
Mrs. Hackett-
Dep. R. | Mrs. Hackett told her that she had no application forms. |
| 11014 | Feb. 24, 1959
Delayed,
Rejected
Mrs. Hackett-
Dep. R. | Mrs. Johnson commenced filling out an application form. She had gotten about halfway when Mrs. Hackett said she was going to take her dinner hour then and that Mrs. Johnson would have to start over when she came back. |
| 11000 | Feb. 24, 1959
Refused
Mrs. Hackett-
Dep. R. | He went to the Circuit Clerk's office to re-register along with another Negro. Mr. Bailey had been registered to vote in Claiborne County prior to Jan. 1, 1954. Mrs. Hackett told him she didn't have time and that he would have to come back. |
| 11006 | Early 1959
Refused
Mrs. Hackett-
Dep. R. | Mrs. Hackett told him she didn't have time then and asked him to come back later. |

11020 About 1959
Refused
Mrs. Hackett-
Dep. R.

The woman in the office told him that the one who gave out application forms was out and that he would have to come back.

11005 Probably
Feb. 1, 1962
Refused
Mrs. Easley-R

Collins entered the Circuit Clerk's office to attempt registration. Mrs. Easley was alone in the office, but stated that she was very busy and that Collins would have to come back some other time.

[fol. 1547]

11038 About March
19, 1962
Refused
Mrs. Easley-R

He went to the Circuit Clerk's office with Alexander Collins and Walter Griffin, both Negroes, to make application for registration. Mrs. Easley refused to take more than one applicant at a time. He was the third to go in. It was just after 3 p.m., but Defendant Easley refused to let him apply, saying that she didn't have time for him, that she had to get some coffee, and that he could come back tomorrow.

11005 Probably
Mar. 19, 1962
Delayed
Rejected
Mrs. Easley-R

He went together with Walter Lee Griffin and Tommie Williams, both Negroes, to the Circuit Clerk's office to attempt registration. Defendant Easley refused to permit them to apply at the same time. Griffin and Williams were required to wait outside while Collins filled out a form and interpreted a section of the Mississippi Constitution. However, Mrs. Easley refused to register him.

11005 Mar 19, 1962 After completing one application form and being rejected by Mrs. Easley, Collins asked if he could try again then. Mrs. Easley refused to permit him to fill out another application form, saying that she had to get coffee. It was 3:00 P.M.
 Delayed
 Rejected
 Mrs. Easley-R

11012 Mid-March, 1962 He, Alexander Collins and Tommie Williams, Negroes, went to Circuit Clerk's office together to attempt registration. Mrs. Easley refused to permit them to make application at the same time. Griffin and Williams waited outside for about an hour while Collins filled out his form. Then Griffin went in. He commenced filling out a form and interpreting Section 197, but had to leave to start work before being able to complete his form.
 Delayed
 Rejected
 Mrs. Easley-R

[fol. 1548]

11005 April 2, 1962 Collins went to the Circuit Clerk's office to attempt registration. Mrs. Easley was alone in the office. She said that he had just been there last week and that she was too busy to have him apply.
 Refused
 Mrs. Easley-R

11014 April 9, 1962 Defendant Easley refused to permit Thelma Crowder, Annie Holloway Johnson, and Estelle Collins Johnson, all Negroes, to make applications for registration at the same time. When Mrs. Estelle Johnson came out of the office after completing her application form and being rejected by Defendant Easley, Mrs. Annie Johnson went in. However, Easley refused to permit her to attempt registration, saying she had to go to dinner. It was about 11 A.M.
 Refused
 Mrs. Easley-R

- 11007 April 9, 1962 Defendant Easley refused to permit her, Annie Johnson and Estelle Johnson, all Negroes, to make applications at the same time that morning. That afternoon, Mrs. Crowder filled out an application form, interpreting Section 165 of the Mississippi Constitution, but Mrs. Easley refused to register her. Her application form was not furnished to plaintiff when records were photographed.
- 11016 April 9, 1963 She, Mrs. Annie Johnson and Mrs. Thelma Crowder, all Negroes, went to the Circuit Clerk's office to attempt registration. Mrs. Easley refused to let more than one apply at a time. Mrs. Estelle Johnson went first, filled out a form and interpreted Section 236 of the Constitution. When she finished, Mrs. Easley looked at it and told her she did good but missed a few things.

[fol. 1549]

B

The following Negro citizens of Claiborne County were not permitted to re-register to vote by the use of the interpretation test. The events described below occurred at the Circuit Clerk's office in Claiborne County.

- 11017 1958 He and about four other Negroes went to the Circuit Clerk's office to attempt re-registration. He knew the answers to some questions in the application form but not to others and returned the form to Mrs. Hackett.
- Hackett-
Dep. R.
Rejected

- 11024 About 1958 Mrs. Hackett-
Dep. R.
Rejected He and several other Negroes went to the Circuit Clerk's office to attempt re-registration. He filled out an application form, but was not re-registered.
- 11026 About 1958 Hackett-
Dep. R.
Rejected He went to the Circuit Clerk's office to re-register. He had previously registered in Claiborne County on March 1, 1952. Mrs. Hackett gave him an application form to fill out. Mr. Owens did not attempt to fill it out because he knew that another Negro, Daniel Newman, had filled out an application form and that Mrs. Hackett had not registered him.
- 11026 2/19/59 Woman
Rejected He went to the Circuit Clerk's office alone to re-register. He previously had registered in Claiborne County on March 1, 1952. The woman in the office asked him if he could explain the Constitution to her. He said he could not, and she told him there was no need to give him an application form and she refused to register him.
- 11000 June or July 1960 Woman
Rejected The woman in the office asked him if he knew the Constitution. Mr. Bailey, who had been registered in the county prior to Jan. 1, 1954, said he did not. She then said he would have to go study a little more before registering.
- 11025 Feb. 1962 Woman
Rejected Went with two other Negroes to register. Woman said he would have to put the Constitution on one side and interpret it on the other. He did not attempt it.

[fol. 1550]

C

The following Negro citizens of Claiborne County filled out application forms but were not permitted to register to vote. These forms have been destroyed. The events described below occurred in the Circuit Clerk's office in Claiborne County.

- | | | |
|-------|--|--|
| 11014 | Mid to late 1950s
Hackett-
Dep. R.
Rejected | Mrs. Johnson filled out an application form and interpreted a section of the Mississippi Constitution, but Mrs. Hackett refused to register her. |
| 11014 | Mid to late 1950s
Hackett-
Dep. R.
Rejected | Mrs. Johnson filled out an application form and interpreted a section of the Mississippi Constitution, but Mrs. Hackett refused to register her. |
| 11014 | 2/24/59
Hackett-
Dep. R.
Rejected | Mrs. Johnson filled out an application form and interpreted a section of the Mississippi Constitution, but Mrs. Hackett refused to register her. |
| 11017 | About 1959
Hackett-
Dep. R.
Rejected | He filled out an application form, but Mrs. Hackett refused to register him. Mr. Johnson asked Mrs. Hackett what was wrong with the form, but Mrs. Hackett would not tell him. |
| 11006 | Fall 1959
Headley-R
Rejected | Mr. Headley asked him why he wanted to register and for whom he planned to vote. Then he gave Mr. Cornish an application form. Mr. Cornish was unable to complete the form. |
| 11012 | 4/2/62
Easley-R
Rejected | He filled out an application form, interpreting Section 211 of the Mississippi Constitution, but the Defendant Easley refused to register him. His application form was not furnished to plaintiff when records were photographed. |

[fol. 1551]

D

The following Negro citizens of Claiborne County were not permitted to register to vote because their application forms did not satisfy the registrar. The events described below occurred at the Circuit Clerk's office in Claiborne County:

- | | | |
|-------|---|---|
| 11005 | 1961
Easley-R
Rejected | Defendant Easley required that he interpret the section of the Mississippi Constitution she had assigned him without referring back to the text of the section. She then refused to register him, saying one or two little things were wrong with his form. On one occasion Collins asked what the things were that were wrong with his form. Defendant Easley refused to tell him. |
| 11005 | Probably
March 26,
1962
Easley-R
Rejected | Collins filled out an application form, interpreting a section of the Mississippi Constitution, but Defendant Easley refused to register him, saying he had gotten it all except for one or two little things. |
| 11013 | 3/29/62
Easley-R
Rejected | He filled out an application form, interpreting Section 165 of the Constitution, but Defendant Easley refused to register him, saying he did a good job with the exception of several errors. |

11016 4/3/62
Easley-R
Rejected

She filled out an application form, interpreting Section 72 of the Constitution. While interpreting the section, Mrs. Johnson turned the form over to refer back to the text of the section. Defendant Easley told her that was not permitted. When Mrs. Johnson completed her form, Mrs. Easley said she had missed a few little things and she had turned over the form. Defendant Easley refused to tell her what was wrong with her form.

[fol. 1552]

Claiborne County #39

Part II

Application Forms

1. & 2. Number of Application Forms and Period Covered

Period includes forms from June 29, 1962 to March 12, 1963.

White	
Accepted	35
Rejected	0
Pending	18
Negro	
Accepted	0
Rejected	0
Pending	1

On April 10, 1961, Mrs. Easley was advised that the government was conducting an investigation into registration practices in Claiborne County.

Exactly one year later, on April 10, 1962, Mrs. Easley was asked about her records by an attorney of the Department of Justice, but refused to show him any application forms.

On November 23, 1962, Mrs. Easley was personally served with a letter requesting that she make available voter registration records in her possession, for inspection and copying, pursuant to Title III of the Civil Rights Act of 1960.

Upon Mrs. Easley's refusal to make available the requested records, the Government, on December 12, 1962,

filed an Application for Order to Require the production of Records for copying and inspection.

Claiborne County voter registration records were photographed on March 14, 1963 pursuant to an Order of this Court obtained under Rule 34 FRCP.

[fol. 1553] No application forms filled out by applicants prior to June 29, 1962 were made available to the Government under this Court's Order, for photographing.

3. Analysis of Forms

a. Selection of Constitutional Sections

Section	Number of Applicants Passed	Pending
36	1	1
209		1
158		1
153		1
135	1	1
110		1
104		1
102	1	1
101	1	1
93		1
91		1
73		2
54		1
24	1	1
23	1	1
14		1
17		1
52	1	
20	2	
46	2	
47	3	
66	1	
71	1	
73	1	
75	1	
77	1	
78	1	
83	1	
99	1	
109	1	
154	1	
157	1	
161	1	
166	1	
190	1	
192	1	
195	1	
201	1	
205	1	
217	1	
243	1	
250	1	
264	1	

[fol. 1554] b. Assistance to White Applicants

(1) Assistance on answers to Question 20

(a) Of the 33 accepted applicants, the following groups answered Question 20 with similar language:

Group I—These applicants used the phrase "help enact the laws" or its equivalent.

Name	Date of Application	Answer to Q. 20
Frishman, Aaron H.	8-6-62	To obey the laws of the State and the Nation and exercise your right to vote to help enact the laws.
Stephens, Edward R.	8-11-62	Obey all the Laws, Vote, and help enact all laws.
Davenport, Martha Betty	8-25-62	Obey all the laws and take part in the elections to help enact all the laws.
Hynum, Don Kenneth	10-1-62	To obey the State and National laws at all times, and use your right to vote to help enact the laws.
Turnage, Mrs. Carolyn Ann	1-31-63	My duties as a citizen are to abide by the laws of the State an nation, also qualify myself to vote to help enact the laws.

Group II—These accepted applicants used the words "State and Nation" in their answers.

Name	Date of Application	Answer to Q. 20
Davenport, Howard C.	8-7-62	Obey all of the State and National Laws.
Ivey, Robert Leon	8-11-62	To obey the laws of the state and the Nation, and exercise your right to vote.
Cupit, Bobbie Jean	9-21-62	To obey all State, County & National laws.
Roberts, Edd	10-13-62	Obey the laws of the State and the Nation take part in all county State and National Elections.
[fol. 1555]		
Fife, Helen T.	10-22-62	Obey the laws of the State and Nation and take part in all county, State and National elections.
Hines, Patricia Ann	1-26-63	Obey the laws of the State & the Nation. By the right to vote to help obey the laws.
Warren, Charles Robert	1-28-63	Use your right to vote and obey all the laws of the United States and Nation.
Warren, Maria S.	1-29-63	Obey the laws of the state and the nation and take interest in all State, national and County elections.

b. Of the 18 applicants whose applications were pending at the time of photographing the following wrote answers to Question 20 substantially similar to those of the applicants listed above in Group II, in that each used the phrase "State and Nation".

Name	Date of Application	Answer to Q. 20
Sanders, James D.	8-13-62	Obey the laws of the State and the Nation.
Carter, Milton Grover	1-31-63	To be a loyal citizen of the State and Nation to obey the laws and uphold them. To take part in church affairs and other. Orzation of the State and Nation.
Howard, Katie Merle	3-4-63	Obey all the laws of the state, and the Nation. Take part in civic affairs and organizations of the state and County.
Campbell, Douglas Elwood	3-12-63	to obey the laws of the state and of the Nation. take part, in my community & government affairs.

[fol. 1556].

Part III

The following Negro citizens of Claiborne County were denied registration by Section 244 of the Mississippi Constitution:

(a) Alexander Collins (11005) (1961) and Estelle Collins Johnson (11016) (April 3, 1962) were not permitted to look at the text of the section of the Constitution assigned to them while they were interpreting it.

(b) Four Negro citizens, who applied unsuccessfully to Defendant Easley for voter registration a total of six times in the Spring of 1962, recalled the sections of the Mississippi Constitution which she assigned to them. All were assigned lengthy and involved sections, none of which were assigned to white persons between June 29, 1962, and March 14, 1963, the period for which Defendant Easley preserved application forms which the Government has photographed. (See pages 39-7 and 39-8.) None of the forms made out by these Negro citizens has been preserved by Defendant Easley.

(1) Elverette J. Jennings (11013) (March 29, 1962) and Thelma Crowder (11007) (April 9, 1962) both received Section 165:

No judge of any court shall preside on the trial of any cause, where the parties or either of them, shall be connected with him by affinity or consanguinity, or where he may be interested in the same, except by [fol. 1557] the consent of the judge and of the parties. Whenever any judge of the Supreme Court or the judge or chancellor of any district in this state shall, for any reason, be unable or disqualified to preside at any term of court, or in any case where the attorneys engaged therein shall not agree upon a member of the bar to preside in his place, the governor may commission another, or others, of law knowledge, to preside at such term or during such disability or disqualification in the place of the judge or judges so disqualified.

(2) Walter Lee Griffin (11012) received Section 197 in mid-March 1962 and Section 211 on April 2, 1962:

[197] The legislature shall not grant to any foreign corporation or association a license to build, operate, or lease any railroad in this state; but in all cases where a railroad is to be built or operated, and the same shall be partly in this state and partly in another state or in other states, the owners or projectors thereof shall first become incorporated under the laws of this state; nor shall any foreign corporation or association lease or operate any railroad in this state, or purchase the same or any interest therein. Consolidation of any railroad lines and corporations in this state with others shall be allowed only where the consolidated company shall become a domestic corporation of this state. No general or special law shall ever be passed for the benefit of any foreign corporation operating a railroad under an existing license from this state, or under an existing lease; and no grant of any right or privilege, and no exemption from any burden, shall be made to any such foreign corporation except upon the condition that the owners, or stockholders

thereof shall first organize a corporation in this state under the laws thereof and shall thereafter operate and manage the same, and the business thereof, under said domestic charter.

[fol.1558] [211] The Legislature shall enact such laws as may be necessary to ascertain the true condition of the title to the Sixteenth Section lands in this state, or lands granted in lieu thereof, in the Choctaw Purchase, and shall provide that the Sixteenth Section lands reserved for the support of township schools shall not be sold nor shall they be leased for a longer term than ten years for lands situated outside municipalities and for lands situated within municipalities for a longer term than 99 years, for a gross sum; provided further that existing leases of the Sixteenth Section lands situated in the municipalities of the state may, for a gross sum, be extended for a term of years not exceeding 99 years from the date of such extension, but the Legislature may provide for the lease of any of said lands for a term not exceeding twenty-five years for a ground rental, payable annually, and in the case of uncleared lands may lease them for such short terms as may be deemed proper in consideration of the improvement thereof, with right thereafter to lease for a term or to hold on payment of ground rent; provided, however that land granted in lieu of Sixteenth Section Lands in this state and situated outside of the county holding or owning same, may be sold and the proceeds for such sale may be invested in a manner to be prescribed by the Legislature.

(3) Estelle Collins Johnson (11016) received Section 72 on April 3, 1962, and Section 236 on April 9, 1962:

[72] Every bill which shall pass both houses shall be presented to the governor of the state. If he approves, he shall sign it; but if he does not approve, he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall

be reconsidered; and if approved by two-thirds of that [fol. 1559] house, it shall become a law; but in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it has been presented to him, it shall become a law in like manner as if he had signed it, unless the legislature, by adjournment, prevented its return, in which case it shall be a law unless sent back within three days after the beginning of the next session of the legislature. No bill shall be approved when the legislature is not in session.

[236] The legislature shall impose for levee purposes, in addition to the levee taxes heretofore levied or authorized by law, a uniform tax of not less than two nor more than five cents an acre per annum upon every acre of land now or hereafter embraced within the limits of either or both of said levee districts. The taxes so derived shall be paid into the treasury of the levee board of the district in which the land charged with the same is situated; and the legislature, by the act imposing said tax, shall authorize said levee boards to fix the annual rate of taxation per acre within the limits aforesaid; and thereby require said levee boards, whenever a reduction is made by them in their other taxes, to make a proportionate reduction in the acreage tax hereinbefore mentioned; but said acreage tax shall not be reduced below two cents an acre per annum; and all reductions in such taxation shall be uniform in each of said districts; but the rate of taxation need not be the same in both of them; and such specific taxes shall be assessed on the same assessment roll, and collected under the same penalties, as ad valorem taxes for levee purposes, and shall be paid at the same time with the latter. And no levee board shall ever be permitted to buy lands when sold for taxes; but the state shall have a prior lien for taxes due thereto. The legislature may provide for the discontinuance of the tax on cotton, but not in such manner as to affect outstanding bonds based on it, and on the discontinuance of the tax on cotton, shall impose

another tax in lieu thereof; but the legislature may repeal the acreage tax required to be levied hereby after the first day of January, A.D. 1895.

[fol. 1560] The number in parentheses following each Negro applicant is the number assigned him because of his having been interviewed by the Department of Justice.

[fol. 1561] Issaquena County #40

Part I

A

The following difficulties were encountered by Negro citizens of Issaquena County when they attempted to pay their poll tax. The events described below occurred at the Sheriff's office in Issaquena County.

- | | |
|--|--|
| <p>24009 2/1957
Lady
Not allowed
to pay</p> | <p>While he was in the sheriff's office to pay his property tax, he asked the clerk about paying the poll tax. She told him that she had received no instructions from the sheriff (Johnson) about receiving poll tax from colored people. He then left, without paying the tax.</p> |
| <p>24005 1/1958
Lady
Not allowed
to pay</p> | <p>When he went to the sheriff's office to pay his property tax he asked the woman if he could pay his poll tax. The sheriff was not in the office and was not found by Hall. He tried to contact him two other times but couldn't find him in the office.</p> |
| <p>24005 1/31/58
Johnson-
Sheriff
Deterred</p> | <p>Saw Sheriff Johnson and asked him if he could pay his poll tax. The sheriff asked him why he wanted to pay the tax, and Hall told him that it was because he was a U.S. citizen and since they accepted his property tax they should accept his poll tax. So the Sheriff took him into the office and directed Marie Gore to accept the tax, which she did.</p> |

- 24009 2/1959
Lady
Not allowed
to pay
Woman in the sheriff's office told him that she had no instructions from the sheriff (Johnson) about receiving poll tax from colored people. So he left without paying the tax.
- 24003 1/1959
Lady
Not allowed
to pay
When in the sheriff's office to pay his property tax he asked the woman clerk if he could pay his poll tax. She told him that he would have to see the sheriff who was not in the office at that time. He left and did not return that year.
- 24003 1/1960
Lady
Not allowed
to pay
When he was in the sheriff's office to pay his property tax he asked the woman clerk if he could pay his poll tax; she told him that he would have to see the sheriff. Since the sheriff was not in his office he left. He returned a few days later, but the same clerk told him that the sheriff was not in then either. So he again left.

[fol. 1562]

24005 1/1960
Gore-
Clerk
Deterred

When he was in the sheriff's office to pay his property tax he asked if he could pay his poll tax. She told him that he would have to see the sheriff. He returned to the office on Jan. 27, with Willie Duffin. The woman in the office called the sheriff and he came over to the office with deputy Davis. The sheriff told them to come to the old office, which is in the jail. There, the sheriff told them about a new road which was planned for their neighborhood, but said that it wouldn't be built if they attempted to pay the tax. But the sheriff said that if they wanted to do things the hard way that they could go ahead and pay the tax. They both then went back to the office and paid the tax.

24003 Approx.
1/30/60
Newman-
Sheriff
Deterred

Accompanied by Clarence Hall, Jr., he went to the sheriff's office to see about paying the poll tax. An unidentified woman in the office called the sheriff who soon came into the office with the Deputy Sheriff Davis. The sheriff asked them what they wanted. When they told him that they had come about paying the poll tax, he told them to come into the jail and talk about it. They did and the sheriff told them that the people in the county would be mad at them for paying the tax and, moreover, that the road which runs past their homes would probably not get the needed repairs. But when they insisted on paying the tax, the sheriff took them back to the office and told the woman to let them pay the tax.

24009 2/1960
Lady
Not allowed
to pay

When he was in the sheriff's office to pay his property tax, he asked the female clerk about paying his poll tax. She told him, "You've got three more days yet." This he took to mean that he was too early to pay his tax.

[fol. 1563]

24003 1/1961
Lady
Not allowed
to pay

When he was in the sheriff's office to pay his property tax, he asked the woman if he could pay his poll tax. She told him that he would have to see the sheriff. He went back later, but the sheriff still was not there. The woman told him that the sheriff was sick. He told the woman that he had paid the tax the year before, but the woman insisted that he would have to see the sheriff.

24005 1961
Deterred

He has not attempted to pay the poll tax since Jan. 1960, because he thought that if he did not attempt to pay the tax in 1961 that the county might build a new road in his district. When he saw the sheriff the year before concerning paying the tax, the sheriff had told him that if he did pay the tax the county wouldn't build a planned road in his district.

[fol. 1564]

Warren Co. #43

Part I

A

The following Negro citizens of Warren County were not permitted to apply to register or were delayed in their attempts to register to vote. The events described below occurred at the Circuit Clerk's office in Warren County.

- 75013 August, 1961 Went to the registrars office to apply to register. Deputy clerk would not allow her to fill out a form; told Mrs. Alford her to go home and study.
Not allowed to apply
Mrs. Alford
DC
- 75011 8/10/61 Filled out application form and was told she would have to produce a birth certificate before being registered.
Delayed
Rejected
Mrs. Alford
DC
- 75019 10/12/61 Went to registration office with Anita Parrot, upon completion of form, they were told to come back in a week as deputy clerk was too busy to grade them. Subsequently, informed that they were rejected.
—
Mrs. Alford
DC
- 75002 9/6/62 She went to registrar's office and was told to come back in a week and was not given a chance to fill out a form.
Not allowed to apply
Mrs. Alford
DC

B

The following Negro citizens of Warren County were rejected because they did not interpret the Constitution to the satisfaction of the clerk who waited on them. The events described below occurred at the Circuit Clerk's Office in Warren County.

75022 6/30/61
Rejected
—
Went to registrar's office with her husband; was given a form and section *b* of the Constitution to copy and interpret; completed the form and handed to clerk; clerk told her she had failed because she had re-copied section word for word.

[fol. 1565]

75014 8/10/61
Rejected
Mrs. Alford
-DC
Went to registrar's office with Mr. E. G. Davenport; after completing form he was told that it didn't make sense.

75013 8/15/61
Rejected
Mrs. Alford
-DC
Went to the registrar's office with Mrs. Wilson and was given Section 46 to copy and interpret; was told that it didn't make sense.

75002 9/5/62
Rejected
Mrs. Alford
-DC
Went to registrar's office alone; was given application form and card with Section 111 of Constitution to copy and interpret; completed form and was told that it was not satisfactory; asked to fill out another; clerk told her that she didn't have time and that she was tired of "you people coming up in truckloads all day long" and told applicant to come back in a week.

75002 9/14/62
Rejected
Mrs. Alford
-DC
Went to registrar's office alone; was given an application form a Section of the constitution; filled out form and was again told that she had failed and not to return for another week.

75007 10/19/62 Went to the registration office with
 Rejected Mr. Taylor; was given Section 5 to
 Miss Ebeling write and interpret; after complet-
 -DC ing form deputy clerk told her to
 come back in a month and that her
 form would be graded and published
 in the interim; form marked "Re-
 jected No. 19—incorrect."

C

The following Negro citizen was rejected because of spelling errors.

75013 8/10/61 Went to registration office with a
 Rejected Mrs. Annie Mae Wilson; was given
 Mrs. Piazza Section 10 to interpret; stood at
 -DC counter and filled out form and was
 told she had failed because there
 were too many spelling mistakes.
 She filled out three forms on this
 day and was rejected on all three.

[fol. 1566]

D

The following Negro citizen of Warren County was not permitted to re-register to vote. This event occurred at the Circuit Clerk's office in Warren County.

75015 2/30/61 Was first registered in Warren
 Rejected County on January 30, 1950 under
 Mrs. Alford maiden name of Mamie Rogers (1st
 -DC Ward; 2nd Election District, page
 8 #3060) After being married she
 went to the registrar's office to have
 name changed on the books; Deputy
 Clerk said she couldn't find her name
 and told her she had to fill out a
 form, then rejected her application.

[fol. 1567]

Warren #43

Part II

Application Forms

1. Number of Forms

On August 13, 1962, the United States made a demand for inspection of voting records on Mr. J. Noel Nutt, Circuit Clerk and Registrar of Warren County. On August 14, 1962, Mr. Nutt refused to make the records available to the Attorney General without a court order. An application for an order requiring production of voting records was filed in the District Court of the Southern District of Mississippi on August 30, 1962, and an order was issued on November 30, 1962. The records were inspected and photographed on January 7-11, 1963.

The earliest form photographed is dated April 11, 1955; the most recent form photographed is dated January 10, 1963. Of these, there are 2,823 white, 277 Negro and 44 racially unidentified accepted forms. There are also 5 "incomplete" white forms, passed but requiring a signature.

In addition, there are 39 white, 207 Negro, and 54 racially unidentified rejected forms. There are also 32 forms rejected because of prior registration.

The names of 46 applicants with forms covering a period from December 21, 1962, to January 10, 1963, were being [fol. 1568] published or were to be published at the time of photographing and the forms had not been acted upon at that time. The following table lists the totals, but forms which are unidentified as to race are not included:

White

Accepted	2,828
Rejected	39

Negro

Accepted	277
Rejected	207

2. Periods Forms Cover

(a) Total Period April 1955-November 1962

Race identification of accepted applicants was made from the registrar's card file. These cards were up to date through approximately November 1962. As a result, the analysis of forms covers the period from April 1955 through November 1962. The present registrar, Mr. J. Noel Nutt, took office on January 3, 1962.

(b) Period: January 1961-January 1962

This period is the year preceding the assumption of office by the present registrar, Mr. Nutt. During this year the former registrar, Mr. Foley was ill; he died in November. After his death Mrs. Helen Alford, who was Mr. Foley's chief deputy clerk, was appointed to fill the vacancy until a special election could be held.

(c) Period: January 1, 1962 through November 1962

This period begins at the time Mr. Nutt assumed office [fol. 1569] until November 1962, which date is the last date for which race of applicants has been identified.

3. Analysis of Forms

(a) Selection of Sections of the Constitution

(1) April 1955-January 1, 1961

From April 1955 to January 1961 the percentage of Negro applicants receiving relatively complicated sections of the Mississippi Constitution to copy and interpret was consistently higher than the percentage of white applicants receiving such sections. During this period, 93% of the white applicants received section 11 to copy and interpret; 67% of the Negro applicants received this section; 22% of the Negro applicants received sections of greater complexity than section 11 (11% of the Negro application forms did not have a section of the Constitution copied thereon). In 1958, after the Civil Rights Act of 1957 was

passed, 85% of the white applicants received section-11.
30% of the Negroes applying were given this section.

Distribution of all sections by race

April 1955—January 1, 1961

Section	White	Negro	% White	% Negro
11	1746	189	93	67
6	30	5	1.6	1.8
5	84	57	4.5	20.2
2	1	—	—	—
16	1	—	—	—
unk.	14	31	.9	11
Total	1876	282	100	100

[fol. 1509-A] Distribution of Section 11 by race and year

April 1955—January 1, 1961

Year	White	Negro	Total		% %	
			White	Negro	White	Negro
1955	320	10	352	11	91	83.5
1956	338	32	341	36	99	89
1957	335	44	338	50	99.5	88
1958	339	18	399	60	85	29.8
1959	458	38	479	47	95.5	81
1960	295	37	307	69	96.1	53.6

(2) Period: January 1961 to January 1962

Approximately 85% of the white applicants received section 11 of the Constitution to copy and interpret. 26% of the Negroes applying were given this section. 64% of the Negroes were given sections of greater complexity than section 11. 21% of all Negroes applying were given one of the following relatively complicated and lengthy sections: section 10 concerning treason against the state; section 21 concerning suspension of the writ of habeas corpus; section 46 regarding alteration of compensation of members of the legislature; and section 111 having to do with the sale of land in pursuance of a court decree or execution. No white applicants were given any of these sections to copy and interpret during this period. In addition, approximately 20% of the Negroes applying were required to copy and interpret section 6 concerning the regulation of the internal government and alteration of the Constitution of the state, a relatively complex and involved section, while only 1% of the whites were given this section.

[fol. 1570] Distribution of Sections by race: 1961

Section	White	Negro	% White	% Negro
	12	3	3.8	3.7
6	3	22	.9	19.5
7	—	1	—	.9
10	—	7	—	6.2
11	274	29	86.0	25.6
13	—	1	—	.9
14	20	4	6.3	3.5
16	1	—	.3	—
21	—	5	—	4.4
22	1	3	.3	2.6
24	—	2	—	1.8
25	2	2	.6	1.8
29	2	—	.6	—
31	1	3	.3	2.7
32	1	7	.3	6.2
46	—	6	—	5.3
111	—	6	—	5.3
unk.	2	12	.6	10.6
Total	319	113	100	100

(3) January 1, 1962—November 1962

From January 1962 to November 1962, approximately 36% of the white applicants were given section 11; 18% of the Negroes applying were given this section to copy and interpret. In addition, 28% of the white applicants were given section 14 to copy and interpret. 3% of the Negroes applying were given this section. 18% of the Negroes applying were given either section 3 (concerning the regulation of the internal government and alteration of the constitution of the state), section 24 (concerning the administration of Justice for injury done without sale or delay), or section 46 (regarding alteration of compensation of members of the legislature)—all more complicated or [fol. 1571] difficult than section 11 or 14. Less than 2% of the whites applying were given any of these sections.

Distribution of sections by race for 1962

Section	White	Negro	% White	% Negro
5	58	23	22.0	38.4
6	2	5	.8	8.4
7	3	—	1.2	—
10	4	1	1.5	1.6
11	95	11	36.4	18.4
12	7	2	2.7	3.3
14	74	2	28.4	3.3
24	2	3	.8	5.0
25	2	—	.8	—
26	1	—	.4	—
29	2	—	.8	—
32	9	2	3.4	3.2
46	—	3	—	5.0
111	2	1	.8	1.6
unk.	—	7	—	11.7
Total	261	60	100	100

(b) Assistance.

(1) April 1955 to January 1, 1961

In the nine-month period from May 1955 through January 1956, immediately succeeding the implementation of section 244 of the Mississippi Constitution, 90 white applicants and 5 Negro applicants had "to be Governed by the law of the State of Mississippi and federal government" or language substantially identical thereto, as an interpretation of section 11.

From January 1, 1956, to January 1, 1961, 457 white and 10 Negro applicants had substantially identical interpre-

tations of section 11 and subsequently identical answers to [fol. 1572] Question 20. These include two sets of similar answers to Question 19; all 457 had a single similar answer to Question 20. These are:

Q. 19—1. "The people shall at any time have the right to petition the government on any subject."

2. "The people have the right to petition the government on any subject."

Q. 20 1. "To vote and obey the laws."

In addition, 63 white applicants and no Negro applicants had answers to Questions 19 and 20 substantially similar to the above. During this period, approximately 25% of the whites and 6% of the Negroes given section 11 to copy and interpret had substantially identical or substantially similar answers to Questions 19 and 20.

Distribution of Standard Answers
By Race and Year

"The people shall at any time have the right to petition the government on any subject."

	Unknown	1956	1957	1958	1959	1960	Total
White	11	133	111	41	70	7	373
Negro	1	1	3	1	1		7

"The people have the right to petition the government on any subject."

	White	Negro
1	6	77
		2
		1
		84
		3

(2) January 1, 1961 to January 1, 1962

During this period 24 white and no Negro applicants had substantially verbatim interpretations of Questions 19 and 20 as follows:

[fol. 1573] 11 white registrants wrote;

#19—"The people shall at any time have the right to petition the government on any subject."

#20—"To vote and obey the laws."

13 white registrants wrote;

#19—"The people have the right to petition the government as long as they do it peaceably."

#20—"To vote and uphold all laws."

(3) January 1, 1962 to November 1962

During this period 9 white and no Negro applicants had substantially verbatim interpretations of section 14 and substantially identical statements in response to Question 20 as follows:

Group A

Name and Date

Question 19

Question 20

Smithhart, Catherine (Mrs. Vernon)

1-15-62

Except by due process of law no person shall be deprived of life, liberty, or property.

To vote and up hold all laws.

Sirianos, Fotini G.

1-17-62

Except by due process of law no person shall be deprived of life liberty and happiness.

To obey all laws.

Williams, Betty Jane

1-22-62

Except by due process of law, no person shall be deprive of life liberty or property.

To vote.

[fol. 1574]

Boone, Daniel H.

1-24-62

Except by due process of law no person shall be deprived for life liberty or property.

Uphold all Laws and Vote.

Hudson, Mrs. Faye S.

1-29-62

Except by due process of law, no person shall be deprived of life, liberty or property.

To uphold all laws, and vote.

Carlson, Melvin M.

1-29-62

Except by due process of law, no person shall be deprived of life, liberty or property.

Uphold all laws.

Passons, Thomas P.

2-5-62

Except by due process of Law no person shall be deprived of life, liberty, or property.

upon hold all Laws.

Group B

Name and Date

Question 19

Vaughan, James A.

3-26-62

No person can be convicted of any crime, property life, or liberty without having benefit of a trial as directed by law.

Question 20

A citizen should be expected to abide by the laws of the state and federal government to assure that the laws will be upheld.

Vaughan, Mary E.

3-26-62

No person, can be convicted of any crime, property, life or liberty without having benefit of a trial as directed by laws.

A citizen should be expected to abide the laws of the state and federal government to assure that the law will be upheld.

[fol. 1575] The following white applicants had verbatim interpretations of section 11 and verbatim statements in response to Question 20 as follows:

Name and Date

Question 19

Wood, Richard D.

1-30-62

That the government shall Not interfere with my right and obligation as a Citizen.

Question 20

It is My duties as a Citizen to help select and support and government official of our Country and their to obey the laws wish we help make.

Wood, Mary E. H.

1-30-62

That the government shall not interfere with my rights and obligations as a citizen.

It is my duty as a citizen to help select and support the government officials of our Country and then to obey the laws which we help make.

(c) Grading

(1) Period: April 1955 to January 1961

The following comparison of Negro rejected and white accepted applications during this period illustrates the arbitrary grading of the application form.

Negro

White

(a) Section 11: The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

Lincoln, L. J.

1-31-56

19. Any one o bay the
Law will be heard by
the government.

Omission

on form Question 12

Rodgers, Mary J.

1-16-56

19. to obey all
rules.

Weatherford, Julian

1-31-56

19. The right to vote.

Omission

on form Question 12.

[fol. 1576]

Johnson, Frank L.

5-21-57

19. It means you are free to
vote for anybody you want
to and you will never be
harmed.

Omission on Form:
Question 12

Neal, Willie B.

10-30-58

19. As a citizen of Mississippi
we has a right to be heard
rigits of creed orl color
by peaceably assembling.

Error or omission on Forms:

Q. 14. unanswered;

Q. 15. answered "no"; Sec. 11
was recopied and interpre-
ted in the space provided
for the interpretation.

Baker, Christopher C.

7-1-57

19. Allways be a law biding
citizen amn on country
allways try mantan the
best policy carry out
and keep constitution of
the U.S. at all times.

Omission on Form:
Question 12

Koestler, Thelma R.

2-19-58

19. The people of the United
States will always be
free to vote according to
their own convictions and
this government is for
the people.

Omission on Form:
Q. 14. unanswered.

Regan, John B.

8-21-58

19. The right of all americans
people of United States of
america to Vote & obey the
Law of the State.

[fol. 1577] (b) Section 5: All political power is vested in, and derived from, the people; all government of right originates with people, is founded upon their will only, and is instituted solely for the good of the whole.

Ross, Christine J.
2-7-58

19. A constitution of Mississippi means that person must be qualified, and to form a constitution there must be more than one person, It take an organization so that they must come to an agreement all government rights originated with the people so there must be coroporation. The power invested in the people makes it possibly for us to have good facilities and good schools for our children and it originates for our government and from the rights that each person who show forth.

Omission on Form:

No signature.

Cockrell, Elbert R.
1-31-58

19. People right to petition the Government.

Thornton, Harry G.
1-30-58

19. Everyone is subject to a higher power, and I believe that this is of sound doctrine.

Smith, Sady B.
1-30-58

19. For Justice and rights.

[fol. 1578] (2) Period: January 1, 1961 to January 1, 1962

The following comparison of Negro rejected and white accepted application forms illustrates the arbitrary grading of forms during this period. All of the white applicants listed below were given section 11 concerning the right to assemble and petition the government to copy and interpret. The Negro applicants listed below were given sections 6, 10, 46, and 111.

Negro

(a) Section 111: All lands comprising a single tract sold in pursuance of decree of court, or execution, shall be first offered in subdivisions not exceeding one hundred and sixty acres, or one-quarter section, and then offered as an entirety, and the price bid for the latter shall control only when it shall exceed the aggregate of the bids for the same in subdivisions as aforesaid; but the chancery court, in cases before it, may decree otherwise if deemed advisable to do so.

Brown, Elisabeth A.
9-5-61

19 If deemed advisable to do so the Chancery court may decree all lands comprising a single tract sold in pursuance of decree of court, or execution, shall be first offered in subdivisions not exceeding one hundred and sixty acres, or one-quarter section and then offered as an entirety, and the price bid for the latter control only when it shall exceed the aggregate of the bids for the same in subdivisions.

White

Section 11: The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

Wells, Frances P.
12-14-61

19 It is the right, for the people to select and elect the Citizens to help run the government.

[fol. 1579]

Negro

(b) Section 46. The members of the legislature shall severally receive from the state treasury compensation for their services, to be prescribed by law, which may be increased or diminished; but no alteration of such compensation of members shall take effect during the session at which it is made.

Brown, Elizabeth A.
9-14-61

19 The members of the legislature shall severally receive from the state treasury compensation or pension for their services, to be prescribed by law, which may be more or less, but not changes of such compensation of members shall take effect during the time at which it is made.

O'Neal, Bessie M.
8-23-61

19 they can not increase or take away as long as legislature is going on will wait until the next session to add or take away.

(C) Section 10. Treason against the state shall consist only in levying war against the same or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

O'Neal, Bessie M.
8-10-61

19 Treason mean you cannot be charged with any thig unless they have to witnesses that have the some thig against you in court treason also mean you should not betray your on state in which you live nor cause any confusion.

White

Section 11. The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

Ivy, Susan H.
5-3-61

19 The state of Mississippi shall have the right to govern the state as it best sees fit for the good of the people.

Hardin, Harl, Sr.
2-6-61

19 The Right of peopel as you wood Like to Be Doned By an Be in a Fair World.

Section 11. The right of the people peaceable to assemble and petition the government on any subject shall never be impaired.

Wood, Lois C.
2-16-61

19 As far as our Government they do the right thange for the people on any thange that Might Come up.

[fol. 1580]

(d) Section 6: The people of this state have the inherent, sole, and exclusive right to regulate the internal government and police thereof, and to alter and abolish their constitution and form of government whenever they deem it necessary to their safety and happiness; Provided, Such change be not repugnant to the constitution of the United States.

Williams, Shirley L. J.
6-30-61

19 It is the right of the people as citizens to regulate the government and police thereof and to change or do away with the constitution or any part thereof. Whenever they find it necessary to protect their safety and happiness provided, such a change does not fight the constitution of the United States.

Section 11: The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

Blansett, Bennie F.
1-30-61

19 Everyone should abide by the Constitution of our Miss Government.

[fol. 1581] (3) Period—January 1, 1962 to November 1962

The following comparison of Negro rejected and white accepted application forms illustrates the arbitrary grading of the interpretation test and of the duties and obligations test during this period. The following Negro applicants failed for an "improper answer to No. 19 & 20", were given Section 5 concerning the investiture and derivation of political power in and from the people. Their forms are compared with those of accepted white applicants who were also given Section 5 to copy and interpret.

Negro

Betty P. Williams
11-1-62

19: All government of right originates with the people.

20: To obey the laws.

Charity Casom
8-22-62

White

Ralph L. Hamblett
3-19-62

19: Made for the people of the world.

20: To obey the laws and to vote.

Frances H. Nielsen
1-26-62

Negro

- # 19: This mean that the people have political power, and that the government of their right are originated with the people upon their on will.
- # 20: The duties of one is to obdy the law and rule of the sta te and to be up standing citizen of Mississippi.

Minnie Murray
8-24-Blank

- # 19: It seem to me all of government worke together are organize with the peoples, in order to make life easy for each indivual or citizen.
- # 20: first I say to be duilfut to obay laws of my stale: To kee it cleaning an religious.

[fol. 1582] The following Negro application also interpreting Section 5 was failed because Questions numbered 13, 15 and 16 were incomplete and Question 19 was answered improperly. It is compared with an accepted white applicant who had Questions 13, 14, 15, 16, and 17 incomplete.

Negro

Mary D. Bolls
10-22-62

- # 19: All the power of our state and country is under the leadership of our law and Govern-ment at the state of Mississippi which should be obey at all times.

White

- # 19: That I will do what I think is best for My & will not be bribed by anyone
- # 20: To work & pull together for the best in every thing.

Jesse Lee Monk
1-29-62

- # 19: freedom
- # 20: abide by the low. Vote.

White

Charley P. Sims
4-30-62

- # 19: All people have the same Right

The following application of a Negro given Section 46 (alteration of compensation of members of the legislature) failed because of Question 19 and 20. It is compared with application forms of accepted whites given Section 11 (right to assemble and petition the government) and Section 14 (right to due process of law). No white applicants were given Section 46 to copy and interpret during this period.

Negro

James T. Smith
1-24-62

- # 19: That prescribed by law may be increased or diminished. No alteration of such compensation of members should take effect during session at times which their are made.
- # 20: I understand the duties and obligations of citizenship under a constitutional government.

[fol. 1583]

White

Fletcher E. Harper
2-1-62

- # 19: To Abide the Laws of the State, an have Receipt for all State official.
- # 20: Privilage provided For Freedom of Speech an helping to Make it a better State to Live in.

Edith S. Harper
2-1-62

- # 19: To abide by our Law of the state and be Good to your fellow man.
- # 20: Privilege Provide By ou Laws are help you goverment an fellow man in ay way that you may be called up on.

Laurence C. Nielsen, Jr.
4-2-62

- # 19: the right to choose
- # 20: Freedom

[fol. 1584]

Part III

The following Negro applicants were denied registration because of the requirements of section 244 of the Mississippi Constitution. Except as noted the precise grounds of denial are unknown.

Name	Address	Date of Application
Donerson, Dorothy L.	1807 Baldwin Ferry Rd.	11-26-62
Williams, Betty P. ¹	Waltersville	11-1-62
Palmer, Amelia B. ²	Rt. 4 Box 28	11-1-62
Bolla, Mary D. ²	Bovina	10-22-62
Meeks, Rosie L. ²	Bovina	9-21-62
Murray, Minnie ¹	808 No. Magnolia	8-24-62
Cason, Charity ¹	912 No. Magnolia St.	8-22-62
Montgomery, Mary L.	903 Buck St.	8-16-62
Green, Mrs. Ivory L.	1876 Jackson Rd.	5-10-62
Green, Christine W.	1001 E. Chestnut St.	8-21-62
Smith, James T. ¹	1710 Baldwin Ferry Rd.	1-24-62
Howard, Isabell W.	3124 Confederate Ave.	10-23-61
Thomas, Westine	2513 Confederate Ave.	10-12-61
Caldwell, Susie	2613 Alma St.	9-27-61
Brown, Elisabeth A.	First Ward	9-14-61
Brown, Elisabeth A.	First Ward	9-5-61
Meeks, James H.	Bovina	8-29-61
O'Neal, Bessie M.	5, Box 253	8-24-61
O'Neal, Bessie M.	5, Box 253	8-23-61
[fol. 1585]		
O'Neal, Bessie M.	5, Box 253	8-22-61
O'Neal, Bessie M.	5, Box 253	8-15-61
O'Neal, Bessie M.	5, Box 253	8-10-61
O'Neal, Bessie M.	5, Box 253	8-10-61
Eavenport, Egration	1009 Vine St.	8-10-61
Wilson, Mrs. Annie M.	Rt. 5, Box 127	8-10-61
Carter, Mary M.	3117 Hall's Ferry Rd.	8-7-61
Williams, Shirley L. J.	2714 Drummond St.	6-30-61
Wallace, Ruthie L.	2632 Carpl (?)	6-20-61
Reed, Mamie W.	703 Monroe St.	2-30-61
Phelps, Mrs. Marie	2302½ E. Same St.	2-3-61
Walker, Joe Evelyn	Rt. 5 Box 2512	2-3-61
Watson, Sarah B.	Unknown	8-30-60
Peterson, Mabel	2505 Hannah Ave.	2-1-60
Wilson, Ruby L.	Rt. 5 Box 133	1-22-60
Murray, Minnie B. H.	808 No. Magnolia	2-17-59
Neal, Willie B.	5 Ward	10-30-58
Ross, Christine J.	1321 Fayette St.	2-7-58
Bingham, Margaret A.	1003 Avenue C.	7-31-57
Johnson, Frank L.	Rt. 4, Box 178	5-21-57
Lincoln, L. J.	1523 Marcus	1-31-56
Murray, Minnie B.	808 No. Magnolia	date unknown

¹ Denied registration on the basis of their interpretation of Mississippi Constitution and on the basis of their statement of the duties and obligations of a citizen.

² Denied registration on the basis of their interpretation of the Mississippi Constitution.

³ Denied registration on the basis of their statement of the duties and obligations of a citizen.

⁴ Denied registration on the basis of errors or omissions on the forms.

[fol. 1586]

Wilkinson County #44

Part I

A

The following Negro citizens of Wilkinson County were not permitted to apply to register to vote until after their names were published in the paper. These events occurred at the Circuit Clerk's office in Wilkinson County.

- | | | |
|-------|-----------------------------------|--|
| 79000 | 4/1/63
Rejected
Whitaker-R | Went to the office of the Circuit Clerk and told Mr. Whitaker she wanted to register; he said he would have to publish her name in the newspaper for two weeks; after that period she was permitted to fill out an application, but was rejected for wrong interpretation. |
| 79001 | 4/23/63
Accepted
Whitaker-R | Went into the office of the Circuit Clerk to register and signed in book, after which her name was published in the newspaper for two weeks; she then returned to office and was permitted to fill out a form; she received no notification of whether she had passed or failed, but went again later to the office and was permitted to sign the registration book. |

[fol. 1587]

Yazoo County #45

Part I

A

The following Negro citizens of Yazoo County were deterred in their attempts to remain registered to vote in Yazoo County. The events described below occurred in the Circuit Clerk's office in Yazoo County.

- | | |
|------------------|---|
| No. 82000 | About three weeks after registering, |
| Date: About 1951 | he was told by several white men, not |
| Deterred | officials, to have his name removed from voter list. He did so. He was then rehired at a job he had been fired from when he registered. |

No. 82010

Date: About 1954

Deterred

He attempted to vote in an election in 1954 at Benton, Miss. He was threatened at the poll by a white man and did not vote. That night and the following day, five white men came to his house and told him he shouldn't have tried to vote and for him to have his name removed from the voting list. One white man removed a leased gas tank from his property.

No. 82006

Date: Fall, 1954 &
1955

Deterred

Paid poll tax through 1954 and voted once sometime between 1952-54. Asked by white employer in Fall of 1954 to remove name from voter list. Told by two Negroes in 1955 to remove name or wouldn't be able to sell or gin cotton. He and his wife had names removed.

No. 82003

Date: Fall 1954

Spring, 1955

Deterred

Voted once and paid poll tax until 1954. Knows that a white man in Fall of 1954 told her husband to have his name removed. In Spring of 1955, two Negroes told her and husband to remove their names or they wouldn't get credit or cotton ginned. They had names removed.

No. 82027

Date: Spring, 1955

Deterred

In the Spring of 1955, a man who identified himself as a member of the Citizens Council, asked her to remove her name from the voting list in her best interests. He said most Negroes were unqualified and only registered because of insistence of NAACP. She did so. She is now afraid to get involved in any voting activity as she fears she will lose her job as a school teacher.

[fol. 1588]

No. 82023
Date: Spring, 1955
Deterred

Told by a white merchant in Spring of 1955 it would be best if he removed his name from list, else people would get mad at him. He did.

No. 82025
Date: June, 1955
Deterred

About June, 1955, a Negro told her an important white man wanted her to remove her name from list of voters. She did so. She had registered without any tests or questions of any kind.

No. 82024
Date: June, 1955
Deterred

Was visited in about June, 1955 by two Negroes who told him that a white man wanted him to have his name removed from the voters list. If he didn't, he wouldn't get credit or his cotton ginned. Two weeks later he went to Yazoo City and had the circuit clerk remove his name. Registered merely by paying poll tax and signing name.

No. 82021
Date: June, 1955
Deterred

Had circuit clerk remove her name on 6/21/55. No one had told her to do this but did so because of fear she would lose credit. After removal, a white merchant asked her to have her name removed.

No. 82015
Date: June, 1955
Deterred

Never attempted to vote. About June, 1955, two Negroes told her that a white man wanted her to have her name removed from voters list. She complied.

No. 82033
 Date: About June,
 1955
 Deterred

In about June, 1955, she heard that some Negroes removed their names from the voters list in order to have their cotton ginned. She then went to Yazoo City and had her name removed. No one had told her to do this. When she registered in 1953, she was only asked if she was born in U.S.

No. 82028
 Date: 1955
 Deterred

He was asked in 1955 by a white man who had been helping him financially for years to remove his name from the voting list. He understood the financial help would stop if he didn't. He was told by another white man that something might happen to Negroes who did not remove their names. He had his name removed and has not tried to register or vote since. He attempted to vote in a state election at the polls in Dover, Miss. about 1953-54 but was not permitted to by an election official.

No. 82026
 Date: About 1955
 Deterred

Told by a white planter in about 1955 that he should remove name from voter list. He did. No threats. Registrar asked if he was forced to have his name removed and he said he was so advised. Has not attempted to register or vote since.

[fol. 1589]

No. 82022
 Date: 1955
 Deterred

He removed his name from the voting list in 1955 after a white merchant told him he would be unable to buy gasoline anywhere unless he had it removed. He then re-registered.

No. 82013

Date: About 1955

Deterred

A white planter asked him to remove his name from voters list. No threats. He did. Has not attempted to register or vote since.

No. 82002

Date: June or July,
1955

Deterred

Never attempted to vote. In June or July, 1955, a Negro told her that two white men wished her and her husband to remove their names from voting list. If they didn't, they wouldn't be able to sell crops or get any help from white persons. They had their names removed.

No. 82001

Date: July or Aug.,
1955

Deterred

Never tried to vote. In July or August, 1955, a Negro told him and his wife that two white leaders in the community wanted them to have their names removed from voters list. If they didn't, they wouldn't get any help, be able to sell crops or get cotton ginned. Also had a white merchant tell him, about two days later, he should remove name. He did.

No. 82007

Date: August, 1955

Deterred

Paid poll tax once but never tried to vote. About August, 1955, a white planter requested him to remove name from list. He did so as was afraid would lose job as a school teacher if he didn't.

No. 82016

Date: Fall, 1955

Deterred

Told by a Negro in the Fall of 1955 to remove name from list. The Negro mentioned two white leaders in the community. Had name removed and told Registrar she wasn't doing this voluntarily.

No. 82005
Date: October, 1955
Deterred

He and his wife had their names removed from voter list about October, 1955. Had not been contacted by anyone but had heard that about 50-60 Negroes in Bentonina took off names. A Negro told him after he had removed name that a white man wanted him to have name removed.

No. 82004
Date: October, 1955
Deterred

Never tried to vote. She and husband had their names removed from voters list about October, 1955. Not told to do so but heard other Negroes were doing so. Says a Negro told her husband that a white man wanted to talk to him about removing name.

No. 82038
Date: About Sept. 1, 1955
Deterred

Paid poll tax but never tried to vote. Son told her that a white planter said she should remove name from voter list if she wanted to get a job. She was a school teacher at the time. She removed name about 9/1/55. Still pays poll tax but has not attempted to register since.

[fol. 1590]

No. 82020
Date: About 1955 or 1956
Deterred

About 1955 or 1956 a white merchant who had been extending credit, asked him to remove name from voter list. No threats. He did. Has not attempted to register or vote since.

No. 82018
Date: Spring 1955 & 1956
Deterred

In Spring of 1955, a white man warned him it would be too bad for him unless he had his name removed from voter list. A white friend told him the same day that this would be wise. In March, 1956, the white friend told him to remove his name if he wanted to buy some land. He did so.

No. 82019
Date: About 1956
Deterred

A white planter, in early 1956, asked her to remove name from voter list but she declined.

No. 82011
Date: August 27,
1956
Deterred

He voted in an election on August 27, 1956. The following day two white men came to his home and told him not to register or vote again. He has not voted since then.

[fol. 1591]

Yazoo County #45

Part II

Application Forms

1. Number of Forms

There are 1249 application forms, 2 of which are rejected. The race of the applicant has not been identified sufficiently for breakdown of forms by race.

2. Period which Forms Cover

March 9, 1955-June 21, 1962.

3. Analysis of Forms

a. Selection of Constitutional Sections

Of the 1249 forms, 861 received Section 14 and 314 received Section 30. The remaining 74 are scattered among many sections.

b. Assistance

Preliminary analysis indicates the following:

(1) 30 registrants wrote the following interpretation in Question 19 for Section 14 of the Mississippi Constitution:

"None of these things can be taken away from a person until he has a fair trial".

(2) 41 registrants wrote the following interpretation in Question 19, for Section 30 of the Mississippi Constitution:

"You can't put a person in prison because he can't pay his debts".

[fol. 1592] (3) The records show 21 sets (of 2 applications) of identical interpretations in Question 19 on the form.

(4) The records show 16 sets (of 2) of identical answers to Question 20 on the form.

(5) 85 registrants, in answer to Question 20, wrote the following statement of duties and obligations of citizenship:

"Protect [or defend] my county, vote in all elections and obey the law".

(6) 27 registrants, in answer to Question 20, wrote the following statement of duties and obligations of citizenship:

"To vote. Obey the laws".

c. Grading

(1) At least 15 registrants wrote wholly unresponsive interpretations to sections of the Constitution.

(2) 20 registrants wrote *Nothing* for Questions 19 or 20.

[fol. 1593]

Amite Co. #46

Part I

A

The following incidents of deterrence with respect to Negro registration efforts occurred in Amite County at the places noted.

57017	8/15/61	Robert Moses, a Negro voter registration worker, accompanied Ernest Isaacs, Birdee Lee Hughes, and Matilda Schoby, to register to vote at Liberty, Mississippi. While the Negroes were applying to register to vote, Mr. Carwile, a State Highway Patrol officer, was in and out of the Circuit Clerk's office. When the Negroes finished, they returned to their car and proceeded to McComb, Mississippi.
57018	Deterred	
57031	W. D. Carwile	
0001	C. Laton Bates	

Ernest Isaacs was driving. They were followed by Carwile and Laton Bates—Bates is the Town Marshal of Liberty. Shortly after their car left Amite County and entered Pike County they were stopped. Isaacs was ordered to go to the police car for questioning. Moses got out of the car and asked Carwile the nature of the charges. Carwile ordered Moses to return to Isaac's car. Carwile then questioned Isaacs about Moses' registration activities. The Negroes were then ordered to follow the police car to the Justice of the Peace in Pike County.

Carwile and the County Attorney of Pike County, Joe Pigott, then prepared an affidavit charging Moses with interfering with an arrest and then changed this to impeding an officer in the course of his duties, no arrest having been made which he could have interfered with. Moses was then convicted and fined \$50 plus \$5 costs. The Justice of the Peace then suspended the fine. Moses then refused to pay the \$5 court costs and was jailed until he did so.

[fol. 1594]

3005 8/29/61
3015 Deterred
0001 Jerry Caston
Billy Jack
Caston

Curtis Dawson and Alfred Knox were walking to the Courthouse in Liberty, Mississippi to register to vote. They were accompanied by Robert Moses, a SNCC worker. They were stopped on the street and Jerry Caston beat Robert Moses. A total of nine stitches were necessary to close the cuts on Moses' head. Curtis Dawson and Alfred Knox did not go on and register.

3022	9/5/61	Travis Britt and Robert Moses, Negro voter registration workers, accompanied Mary Lee Nunnery, Marie Wells, and Mrs. Felton Weathersby, to register to vote. Mrs. Nunnery, Mrs. Wells and Mrs. Weathersby went into the registrar's office and began filling out application forms. The Sections they had to copy and interpret were very long and while they were filling out the forms Bryant Jones and J. W. Reynolds were harassing Britt and Moses and then Bryant Jones beat up Travis Britt before a crowd of white men on the lawn behind the courthouse. The Negroes filling out forms heard the beating and could see the crowd through the window in the registrar's office. They left without completing their forms.
3034	Deterred	
3036	Bryant Jones	
0001	J. M. Reynolds	
3004		

B

The following Negro citizens of Amite County were required to apply to register one at a time though in the past applicants have been permitted to apply more than one at a time. The events described below occurred at the Circuit Clerk's office in Amite County.

3021	8/21/62	Went with group of Negroes to register. Told to go one at a time. He filled out forms, copied and interpreted Sec. 160 of Constitution. Was rejected.
	Rejected	
	Whittington	
	-R	

[fol. 1595]

3022	8/21/62	Went with group of Negroes to register. Told to go in one at a time. Storm came up while she waited her turn, she left.
	Refused	
3037	8/21/62	Negroes were only permitted to apply one at a time.
	Delayed	

- 3038 8/21/62
Refused
Went with group of Negroes to register. Had to go one at a time. Unable to apply because not enough time.
- 3040 8/21/62
Rejected
Whittington
—R
Went with group of Negroes to register. Could only go in one at a time. Completed forms—took over one hour. Copied and interpreted Sec. 221 of Constitution.
- 3042 8/21/62
Rejected
Whittington
—R
Went with group of Negroes to register. Told they had to go in one at a time. Completed forms and copied and wrote interpretation of Sec. 161 of Constitution, was rejected.

[fol. 1596]

Amite County

Part I

B

The following Negro citizens of Amite County were not permitted to register or were delayed in their attempts to register at the Circuit Clerk's office in Amite County.

- 30050 About 1952
No apply
Whittington
—R
Went to Registrar's Office and only Mr. Whittington there. Told him he wished to register. Was told he had not paid poll tax, then it was found that he had. Then he was denied opportunity to register because it would be best if "colored people" would "wait a while".
- 30055 In January
1954 or 1955
No apply
Whittington
—R
She and Mrs. Estelle Turner, a Negro, asked Mr. Whittington if they could register. He told them they would have to know about the Constitution of the state and they did not register.

- 30056 August 18,
1960
No apply
Delayed
Whittington
—R
Went with Ernest Isaacs and they were told by Mr. Whittington that he was checking marriage license. Then Mr. Whittington left and did not return while they waited on him.
- 30056 Late August,
1960
No apply
Delayed
Whittington
—R
Went with Ernest Isaacs. Told by Mr. Whittington that he was busy and he left the office.
- 30056 August 15,
1961
Delayed
Form
Rejected
Whittington
—R
Went with Ernest Isaacs, Bob Moses and Mrs. Birdie Lee Hughes, all Negroes. She and Mrs. Hughes had to wait while Isaacs filled out the first of his form. After lunch they were given forms. All three were told they failed. They were told they could not reapply for six months.
30053. August 15,
1961
Delayed
Form
Rejected
Whittington
—R
Went with Bob Moses, Ernest Isaacs, and Matilda Schoby, all Negroes. Registrar was there and some other whites came in and out including a highway patrolman. Only Isaacs was allowed to register before lunch time and she and Mrs. Schoby had to wait. She and Mrs. Schoby were given forms after lunch, completed them, and were told they failed.

[fol. 1597]

Amite County #46

Part III

Application Forms

1. Number of Forms

There have been a very small number of forms retained in Amite County. There is a problem of identification of the race of the persons who completed the forms. For those whose applications were accepted, the plaintiff knows that one of them is a Negro and believes the rest are all white. For the rejected applications, the plaintiff knows that twenty are Negroes and two are whites and believes that of the rest, one is Negro and the rest are whites. Following is a chart of the applications on file at the Registrar's office at the time of photographing on March 29, 1963.

Whites

Accepted
(Since June 26, 1962) 18

Rejected
(Since June 14, 1955) 18 (including at least
4, possibly 5,
that did not meet
the residence re-
quirement)

Negroes

Accepted
(Since June 26, 1962) 1

Rejected
(Since June 14, 1955) 21

[fol. 1598]

• 2. Periods Covered

The date of the first accepted application retained by the Registrar and made available to the plaintiff to photograph is dated June 26, 1962. The date of the first rejected application was June 14, 1955.

The period during which the Registrar has been retaining accepted applications contains at least three important dates: (1) August, 1961 when the then recently organized drive to encourage Negroes in Amite County to register began to result in attempts by Negroes to register in small groups; (2) October 4, 1961 when John Doar, an Attorney with the Civil Rights Division of the Department of Justice, first inspected the records of the Registrar and informed

him of the federal law forbidding the destruction of voting records, including accepted applications; (3) June 19, 1962 when Gerald Stern, an Attorney with the Civil Rights Division of the Department of Justice, again inspected the records and informed the Registrar again of the federal law regarding the destruction of voting records and furnished him with a copy of the relevant statutes setting forth such requirements.

3. Analysis of Forms

a. Selection of Sections

The following sets forth the sections used by the Registrar for the various persons filling out applications:

[fol. 1599]

b. Assistance

The small group of white accepted applications present a striking picture, especially when considered with forms from other counties. Every form, with occasional minor exceptions, has every question answered completely, correctly, and, for multiple question such as Question 6 on the form, consecutively. Questions 19 and 20 are fully answered and on many of the forms, the answers fill or nearly fill the space provided.

c. Grading

It is impossible to determine positively the basis for rejection of the Negro applications. Only seven of the twenty-one rejected Negroes attempted to interpret the section of the Constitution assigned to them. Three of their forms have check marks by questions which they left blank or only partially answered (Mrs. Birdie L. Hughes' form of August 15, 1961; Mrs. Matilda Schoby's form of August 15, 1961; and Eddie Nunnery's form probably of August 22, 1961). One additional form (Eddie Nunnery's form of August 21, 1962) had a mark by his answer to Question 19 which could indicate it was unacceptable. None of the rejected Negro forms except perhaps the form executed by William Weathersby on August 21, 1962, which was not clearly photographed by the plaintiff, compares with the long, complete and complex constitutional interpretations which most of the white forms exhibit.

[fol. 1600]

(1) Rejected Negroes

1, 72, 112, 131, 160 (2 times), 161, 181, 197, 211 (2 times), 213A (2 times), 218, 221, 229, 236, 241 (2 times), 256 (2 times).

(2) Rejected Whites

1 (two times), 17, 18, 23 (5 times), 72, 88, 128, 154, 160, 182.

(3) Accepted Negroes

211

(4) Accepted Whites

1, 18, 22, 23 (2 times), 41 (2 times), 81 (2 times), 87, 96, 160 (2 times), 161 (2 times), 162, 175, 260.

There are very few sections which were given to both Negroes and whites. The sections assigned only to Negroes almost without exception far exceed in length and complexity those assigned only to whites. This is despite the fact that many of the sections assigned only to whites are only very occasionally, if ever, assigned in other counties and they are themselves long and complex. To illustrate the length and difficulty of the sections assigned to Negroes, there are a large number of Negroes who had to have far more space to copy the section assigned them than is provided on the application form. Some of them wrote on the back of the form filling over a half of the form, and some had to use all or a good part of the space provided for the interpretation in Question 9 to copy their section.

[fol. 1601]

Amite County #46

Part III

The following is a list of Negroes who have been denied the right to register to vote due to the requirement that each applicant must interpret a section of the Constitution and due to the extremely long and difficult sections which the registrar assigned them:

Ernest J. Doar
 Mrs. Birdie L. Hughes
 Eddie Nunnery
 Mary Lee Nunnery
 Mrs. Matilda Schoby
 Mable L. Weathersby
 Telton Weathersby
 Tommie Lee Weathersby
 Marie Wells

[fol. 1602]

Copiah #47

Part I

A

The following Negro citizens of Copiah County were not permitted to apply to register or were told they could not reapply for six months. All events described below occurred at the Circuit Clerk's office in Copiah County.

15002	Mar., 1955 Refused Weeks-R	Was told by Weeks new registration book had not arrived.
15002	April, 1955 Refused Weeks-R	Was told by Weeks new registration book had not arrived.
15002	May, 1955 Refused Weeks-R	Was told by Weeks that new regis- tration book had not arrived.

- 15040 1955
Refused
Weeks-R
Went to Circuit Clerk's office and was told by Weeks that there were no books ready yet for "colored folks."
- 15010 Between
1955-1957
Rejected
Delay
Weeks-R,
Woman
Went to register and met Mrs. Callahan there. Mr. Weeks gave her an application and pointed out section of constitution on habeas corpus for her to interpret. She completed form and handed it to woman who told her she had not filled out form correctly. When asked, woman refused to point out what the errors were. Told she could not return for six months.
- 15010 1958
(Approx.)
Refused
Man
Arrived with three other teachers at 4:45 P.M. Was told to come back next day because 45 minutes needed to fill out form.
- 15012 Jan., 1959
Refused
Weeks-R
Went with 2 or 3 to apply about 4:00 P.M.; was told by Mr. Weeks that they would not have time to complete application.
- 15023 Jan., 1959
Refused
Weeks-R
Went to Clerk's office with several others. Was told there were no application blanks at that time.
- [fol. 1603]
- 15015 1959
Refused
Weeks-R
Was told by Weeks that the registration books were not there.
- 15038 April,
1960
Refused
Man
Was told she had to have paid poll taxes for two consecutive years and since she had not done so she could not register.
- 15037 Fall, 1960
Refused
Weeks-R
Was told by Weeks that the books were closed at this time. Was told by Weeks to learn Constitution and come back again.

- | | | |
|-------|---|--|
| 15012 | Jan., 1961
Refused
Weeks-R | Went to apply and was told by Mr. Weeks that no registration forms available. |
| 15007 | Jan. 29,
1963
Refused
Mrs.
Ferguson | Went with another and arrived Clerk's office approximately 4:45 P.M. Was told it was too late to apply that day and to come back again. |
| 15040 | Jan., 1963
Refused
Weeks-R | Went to registration office and was told by Weeks that he was too busy to handle his registration at this time. |
| 15004 | Jan., 1960
Rejected
Delay
Woman | Filled out application. Does not recall either copying or interpreting Constitution. Forgot his glasses and reading was difficult. Was told he had not passed and that he could come back in six months. |

B

The following Negro citizen of Copiah County was deterred from applying to register by the existence of the interpretation test.

- | | | |
|-------|------------------|--|
| 15029 | 1962
Deterred | Has never attempted because he doesn't know anything about the Constitution and believes he would not, therefore, be accepted. |
|-------|------------------|--|

[fol. 1604]

Copiah County #47

Part II

Application Forms

1. Number of Forms

February 15, 1960—January 3, 1963

Whites

Accepted

475

Rejected

5*

Negroes

Accepted

4

Rejected

9

There are 50 additional forms from persons whose race is not presently known but who are believed to be white.

2. Period Covered

On September 17, 1963, the Government applied to the United States District Court (S.D., Miss.) for an order to inspect and reproduce the voter registration records of Copiah County. That order was issued on December 10, 1962, and the records were duly photographed on January 3 and 4, 1963. The first preserved application form was dated February 15, 1960. In all, 543 application forms were photographed.

* No rejected white applicant answered either Item 19 or Item 20. One apparently stopped filling out his form because he learned he already was registered in the County. Another lacked sufficient residence.

[fol. 1605]

3. Analysis of Forms

a. Selection of Constitutional Sections

Section	Whites*	Negroes
8	7	0
9	6	0
11	1	0
12	8	0
13	1	0
14	5	0
15	1	0
20	3	0
22	45	0
25	47	6
28	7	0
30	388	0
31		1
32	1	0
33	5	0
35	1	0
63	1	0
98	1	5
Section Unknown		1

* Included herein are the application forms of those persons mentioned in Section 1 hereof whose race is not definitely established but who are believed to be white.

[fol. 1606] (1) Section 30 of the Mississippi Constitution reads as follows:

"There shall be no imprisonment for debt."

This section was assigned to 388 of the 528 white applicants (approximately 73%) and to none of the Negroes.

(2) Section 98 of the Mississippi Constitution reads as follows:

"No lottery shall ever be allowed, or be advertised by newspapers, or otherwise, or its tickets be sold in this state; and the legislature shall provide by law for the enforcement of this provision; nor shall any lottery heretofore authorized be permitted to be drawn or its tickets sold."

This section was assigned to 5 of the 13 Negroes (39%) and to one white person. The only white person to whom Section 98 was assigned (William C. Harrell) applied on the same day (1-9-61) as one of the Negroes (Roosevelt Lux) who received that section. Of the white applicants whose applications have been preserved and who applied

prior to Roosevelt Lux (that is between 2-15-60 and 1-9-61) 84 of the 94 applicants received Section 30. Among the 10 exceptions who did not receive this section, there were seven applicants for absentee registration and three engineers. After 1-9-61 until the next Negro applied on 1-24-61, 25 of the 27 applicants who applied received Section 30. A radio announcer and a rancher did not receive this section.

[fol. 1607] (3) The first five Negro applicants whose application forms were preserved by the registrar were all assigned Section 98. The first Negro applicants who did not receive Section 98 were Delphine Gordon and Willie Gordon who applied on 1-25-62.

(4) During the two year period from February 15, 1960 to January 22, 1962, excluding the seven absentee applicants, of the first 283 white applicants, 277 received Section 30. Of the six white applicants who received different sections, three were the engineers mentioned previously, one a radio announcer, one the service manager of the Butane Gas Company and one a rancher. Throughout this period, all Negro applicants received Section 98.

(5) The practice of assigning Section 30 to virtually all white applicants and Section 98 to all Negro applicants continued from the date of the first form until January 23, 1962.

(6) Even after this period, the same general practice of assigning Section 30 to white applicants continued. 101 of the 192 white applicants received Section 30. No Negroes received this section.

b. Assistance to Whites

The interpretations of white applicants for Section 30 of the Constitution fall into several different answers. They are:

[fol. 1608] (1) Question 19 and 20

The following applicants answered Section 30 with similar compound sentences, saying essentially, "all legal debts should be paid, but I can't be put in jail if I fail to do so."

Within the following groups not only is the interpretation similar but also the answers to item 20.

(a) 5 White Registrants

	Q. 19	Q. 20
Martha Rice Gates 10-20-60	All legal debts should be paid— However, if unable to pay I shall not be confined to jail—	Exercise my right to vote—Honor and obey the laws of the State and Country—Stand behind the church
Gail Ellis Dixon 10-22-60	all legal debts should be paid, but I can not be put in jail if I fail to do so—	Exercise my right to vote and obey all laws.
Myrtle Norman Blakeney 2-3-62	All debts should be paid but I cannot be imprisoned if I fail to pay my debts.	Exercise my right to vote and obey the laws of my state and government.
Frank Ramsey Bailey 4-14-62	All legal debts should be paid but I can't be put in jail for not paying my debts.	I must pay my poll tax and exercise my right to vote and obey all laws.
Joyce Lowery Raney 7-5-62	All legal debts should be paid, but you can't be put in jail for not paying	Exercise my right to vote and obey all laws.

[fol. 1609]

(b) 12 White Registrants

	Q. 19	Q. 20
Billie Greer Walker 2-27-60	All honest debts must be paid but I can not be confined to a jail for failure to do so.	I will honor my school & church and exercise my right to vote and obey all laws.
John Prentiss Jones 11-8-60	all debts should be payed but I cannot be put in prison if I fail to do so.	honor my school and church and obey all laws of my country
Mary Frances Taylor 1-28-61	all debts must be paid but if I fail to pay them I cannot be put in jail	Honor my school, church and obey all order of my country
Alice Marie Hall Perkins 1-2-62	All legal debts should be paid but if I fail to pay my debts I can not be put in prison	Honor my Church & school and obey all laws.
Richard E. Belding 1-17-61	All legal debts should be paid in full, but in the event that I cannot payemtn I shall not be placed in jail.	honor the Church, school, Laws, and all forms to government if I should be call into active duty I shall fight for the constitution of the United States of America.

Q. 19

Mildred Charlene T.
McNeill
1-28-61

all debts should be paid but upon not doing so I can not be jailed for such.

Bobbie Sue
Whittington
1-28-61

Pay all debts made, but if I fail to do so I cannot be confined in jail.

Doris Turnage
Brumley
1-28-61

All debts should be paid but if I fail to do so I cannot be confined in a prison

[fol. 1610]

Lloyd McCordle
1-31-62

all debts should be paid but no prison term cannot be assessed against me if I fail to pay my debts-

Barney Lamar Moman
1-31-61

Debts should be paid But not confined to Prison for not Paying them

Mrs. J. A. Grace
1-31-61

All legal debts must be paid but I can not be put in Jail if I fail to pay my debts.

Lacey H. Tadlock
8-15-62

I am obligated to pay all my debts but in such case that I do not, I will not be imprisoned for it.

Q. 20

Honor laws of the state, churches, schools respect flag and government.

honor churches, schools and laws of state respect flag and government

Honor my school, church and obey all laws

The duty of a Citizen is to honor the Schools, churches, & obey all laws.

Honor School & Church and Flag

Honor my church-school & law of my country.

Honor my churches and school exercise my right to vote and obey all laws.

(c) 7 White Registrants

Nettie Hutson Greer
2-27-60

all legal debt must be paid. I cannot be confined to an instutione or jail to failure to do so.

I will honor my flag & county & obey all laws.

Luther Littleton
7-16-60

All Legal debts should be paid but no imprisonment for failure to do so.

I will honor my flag and obey all law to my State and Country

Bernice Alton
Kennedy
1-4-61

all debts should be paid

hondon my falgo and country and oboy laws

Shirley Marie
Thedford
9-28-61

All legal debt should be paid but I cannot be confined in a jail if I fail to pay Debt

I will honor my flag and country to bay all laws.

Willie Velma M.
Cagle
11-24-61

all legal debts should be paid, but I I cannot be comfined if I fail to do so

Obey all laws of my county and honor my flag and country.

[fol. 1611]

Charles Amos Walker
12-29-61Q. 19
All Legal Debts
should be PaidQ. 20
Honor my flag &
country & obey all
LawsRobert Adrian
Lowery
7-5-62All legal debt should
be paid but there
shall not be no im-
prisonment if not
paid.Honor my flag and
country and obey all
laws.

(d) 9 White Registrants

Cecil Lamar Bowlin
5-24-60All Legal debts
Should be paid, but
I can not be con-
fined to any Jail or
prison if I fail to
do so.I will obey all Laws
under the Consti-
tution of my Country.Marguerite Hammack
Walters
4-1-60All legal debts should
be paid but I can not
be confined to a jail
or institution if I
failed to do so.I'll exercise the
right to vote to
honor my country,
church, etc-Hazle Bennett Bryant
11-4-60All debts should be
paid but you will not
be confined to prison
if not paid.To obey all laws &
honor your church &
country.Franklin M. Bryant
11-4-61all debts should be
paid but you will not
be confined to prison
if not paidis to obey all laws
under my flag &
countryElma Pariah Cliburn
1-23-61All honest debts shall
be paid and I not be
confined in prison if
can I fail to do soObey all laws
Honor my flag &
countryArch G. Long, Jr.
1-28-61All just debts should
be paid but if not I
cannot be imprisoned
for same.Duty to God and my
country.Triutt Palmer Wilks
1-31-61Debts are expected to
be paid but not sub-
ject to jail imprison-
ment if unable to payPoll tax paid Honor
God, Country, State

[fol. 1612]

Bobby Joe
Whittington
1-27-62all debt should be
paid But no prison
sence should be placed
on one if I don't.To obey all laws in
the constitution of my
state and government.Ludie Mae M. Vaughn
9-4-62All legal debts
should be but under
our law I can no be
tried for them.exercise my rights to
vote and honor my
flag and country

(2) 113 white registrants began their interpretations with the phrase "a person"; 41 of these began it with the phrase "a person cannot be" and concluded it with the phrase "for an honest debt".

(a) 17 White Registrants—verbatim interpretations and very similar statement of duties and obligations.

Q. 19

Q. 20

Nasia Clovis
Whittington
6-6-60

A person can not be
put in jail for an
honest debt.

obey all laws and be
a qualified elector.

Mrs. Mary Yarbrough
6-15-60

A person cannot be
put in jail for an
honest debt.

To obey all the laws
and register and vote
for the persons of
your choice

Lorene Ross Sharp
7-2-60

A person cannot be
put in jail for an
honest debt—

To be a good citizen
—uphold constitution
and obey all laws.
and be a qualified
elector.

Elvin Bennett
Buckley
7-8-60

A person cannot be
put in jail for an
honest debt.

obey all the laws
and be a qualified
elector

Sally Conn Beasley
11-8-60

a person cannot be
put in Jail for an
honest debt.

Obey all the laws.
Be a qualified
elector—

Mary Cole Berry
11-22-60

a person cannot be
put in jail for an
honest debt.

obey all the laws of
the Government, Be a
registered qualified
voter

Lewis Elwood Greene
1-30-61

a person Cannot be
put in jail for an
honest debt.

To be a good citizen,
you have to obey all
laws, up hold the
Constitution and be a
qualified elector.

Frances Addine
Hayden
1-30-61

a person can not be
put in jail for an
honest debt.

obey all laws uphold
constitution Be a
qualified elector

[fol. 1613]

Bessie Laura D.
Lowery
5-30-61

a person cannot be
put in Jail for an
honest debt.

First you have to obey
all the laws & up hold
the constitution

Benny Charles Walker
7-29-61

a person cannot be
put in Jail for an
honest dept.

to be a qualittied to
vote to obey all laws
up hold the consti-
tution

Clair Bell Allen
7-29-61

A person cannot be
put in jail for an
honest debt.

Obey all the laws
uphold the consti-
tution. Be a quali-
fied voter

	Q. 19	Q. 20
Mary Selma D. Tisdale 1-16-62	a person cannot be put in jail for an honest debt.	Obey all the Laws and uphold the consti- tution and be a quali- fied elector.
Lucy Merle Martin 1-27-62	A person can not be put in jail for an honest debt—	To obey the laws and uphold the consti- tution and vote.
Mae Catherine Shumaker 4-27-62	A person can not be put in jail for an honest debt.	Obey all laws that the government of Mississippi have Registrater to vote
Louise Johnson Sims 2-22-62	A person can not be put in jail for an honest debt.	You have to obey all laws. Uphold the constitution and exer- cise your right of voting
[fol. 1614]	Q. 19	Q. 20
Vernon Geraki Turlow 5-14-62	A person cannot be put in jail for an honest debt	help obey all laws, up hold constitution- al register and Vote for your choice
Fred Lee Russell, Jr. 1-25-61	A person shall not be put in jail for an honest debt.	Uphold and, obey Laws Be a qualified Elector

[fol. 1615] (b) 24 White Registrants (minor variations from (a))

	Q. 19	Q. 20
Robert Hunter Smith 8-23-61	A Person can't Be Put in Jail for an honest Debt.	To uphold the con- stitution and obey all the Laws, and Register & vote.
Linnie Zelma McMillan 1-26-62	A person can't be put in jail for an honest debt.	Obey laws—Exercise yourself by voting.
Gloria Ann O'Cain 1-27-61	A person cannot be put in jail for a honest debt.	Must obey & abide by all laws of government—Vote for and uphold what you believe to be right.
Henry Cleveland Bates 1-30-61	aperson can not Be put in jail for a honest debt.	Oby all laws, Regis- tor and vote.
Willie Bell Bates 1-30-61	a person can not be put in jail for a honest debt.	Obey all laws, Register and Vote.
Thressia Gwinn Maddock Moman 2-3-61	A person cannot be put in jail for a honest debt.	You have to bear all laws and pay your taxes, and register and vote.

Q. 19

Juliet Kinstley
7-8-61

A Person cannot be put in Jail for a honest debt.

Troy Beroy Allen
7-29-61

A person cannot be put in Jail for a honest debt.

Harry Jim Hayden
1-30-61

A person cannot be jailed for an honest debt.

[fol. 1616]

Cornelia Russell Hood
2-3-61

A person cannot be jailed for an honest debt.

Barbara Gladys
Blaine
3-20-62

A person cannot be jailed for honest debt.

Syrettha Mae Young
-Tadlock
1-27-61

a person cannot be placed in jail for an honest debt.

Suzanne Frances Spell
8-16-60

A person cannot be placed in jail for an honest debt.

Nancy Lee Watson
10-4-61

Person can not be put in jail for and honest Debt.

Myra Meleese McNabb
Reamer
1-27-61

Person cannot be put in jail for an honest debt.

Mrs. Lona B. Fuller
7-26-60

Person can not be put in-jail for an honest debt.

Rebecca Barlow
7-11-61

This section of the Constitution of Mississippi means that a person cannot be put in jail for an honest debt.

Q. 20

Obay all the laws. be a qualified elector.

I obey all the laws and uphold the constitution be a qualified elector.

A citizen should uphold all the laws of the constitution and be a qualified elector.

A citizen is obligated to vote for the person of their choice. be loyal to their state, and take an active part in its growth and activities.

Obey all the laws set forth by the constitution. Exercise the privilege of voting.

Obey the laws. Uphold the constitution Be a qualified elector

The citizen has an obligation to vote and uphold the constitution of the United States. To obey all laws enacted by the elected representatives of the people.

Obay the Laws up hold the constitution, and vote your convictions.

Be a qualified elector—Obey all the laws.

Obey all the laws and be an qualified elector.

I shall obey all laws and honor my flag and country, exercise my right to vote and attend the church of my choice.

[fol. 1617]

Q. 19

Q. 20

Carolyn Thompson
2-29-60A person Cannot be put
in jail for honest
debts.Obey all laws &
be a qualified
elector.Loyal Brown Morris
3-17-61Person cannot Be put
in Jail for Honest
debts.Obey all Laws
Up Hold constitu-
tion
Reger & voteJoe Ben Pezant
1-30-62A person shall not be
put in jail for an
honest debt.You have to obey
the laws, uphold
the constitution,
be a qualified
elector.Bettye Blythe Russum
6-9-60A person can not be
put in prison for any
honest debt.The duties of a
citizen are to
obey the laws, be
a qualified elector.Lilly Katherine
Vaughn
9-24-60A person cannot be put
in prison for an honest
Debt.Obey all laws Be
a good citizen up-
hold constitutional
Register and Vote.Everett C. Taylor
9-24-60A person cannot be put
in Prison for an honest
debt.Obey all the laws,
up hold the con-
stitution, Register
and vote.Joyce Thomas Bennett
1-30-61A person cannot be put
in prison for an honest
debt.Obey laws, uphold
constitution, be
qualified elector[fol. 1618] (c) 31 white registrants—verbatim interpre-
tations omitted “honest” from group (a) above.Maggie Lee Carr
2-15-60Person cannot be put
in jail for a Debt.Obey all the Laws
Be a qualified
elector.Inez Bell Hammons
6-2-60A person can not be
put in jail for a
debt.Obey laws, uphold
constitution, regis-
ter to vote.Marvin Lee Brown
9-16-60A Person cannot be
put in Jail for a
debt.To obey all the
laws and register
and Vote.John Thomas Walker
9-26-60A person can not be
put in jail for a
debt.Obey all laws and
be a qualified
elector.Donis Pearl Rickett
10-5-60A person can't be put
in jail for adebt.Obey all the laws,
and up hold the con-
stitution
Be a qualified elec-
tor.Mack D. Owens
9-25-61a person can not be
put in Jail for Debt.Obey all laws. Be
qualified Elector.

Q. 19

Jo Ann Wolverton
Newman
1-5-61

A person can not be
put in jail for a
debt.

Betty Rose Hennington
Beach
1-12-61

A person can not be
put in jail for a
debt.

William Ray Russell
1-13-61

A Person cannot be
put in jail for a
debt.

Margaret Aretha Brent
1-13-61

A person cannot be
put in jail for a
debt.

[fol. 1619]

Blam H. Smith, Jr.
1-14-61

a person cannot be put
in jail for a debt.

Amarella S. Bridges
1-21-61

A person cannot be put
in jail for a debt.

Ann Russell Newell
1-31-61

A person cannot be put
in jail for a debt.

Alco LeMaire Hall
2-4-61

A person cannot be put
in an jail for a debt.

Tommie Frank Little
6-26-61

A person can not be
put in Jail for a Debt.

Vivian Barker Myers
10-12-61

A person cannot be put
in jail for a debt.

Clara Ann Beaube
11-28-61

A person can not be
put in jail for a
debt.

Lee Roy Johnson
1-3-62

A Person can not be
Put in Jail for a debt.

Emma Clara Mullen
1-16-62

a person cannot be put
in Jail for a debt.

Q. 20

Obey all laws &
Regulations And be
a qualified elector.

To be a citizen obey
all the laws. Uphold
the constitution and
be a qualified elec-
tor.

Obey all the laws.
Uphold the consti-
tution Register and
vote.

a person has to obey
all laws, be a quali-
fied voter to be a
good citizen.

Obey all laws and
be a qualified
elector.

Obey all the laws
uphold constitu-
tions Be a quali-
fied Elector.

Obey all laws,
register and vote,
uphold all the
laws.

1st Obey all the
laws. 2nd Uphold
the constitution.
3rd Be a qualified
voter.

To obey all Law.
be a qualified
elector.

Obey all laws
Uphold the Con-
stitution
Be a qualified
elector.

Obey all laws of
the Constitution
Be a qualified
elector.

Obey all laws and
Be a qualified
Elector.

Obey all laws up-
hold Constitution
Register and vote.

(fol. 1620)

Leroy Walter Gandy
1-17-62

Q. 19

A person can not be put
in jail for a debt.

Q. 20

up hold the laws and
the constitutions of
this State and the
Union and be a quali-
fied elector.

Herbert Walters
1-20-62

person can not be put
in jail for a debt.

obey all laws, uphold
all the constitution
and register and vote.

Leva Martin (Mrs.)
1-24-62

A Person Cannot Be Put
in Jail for a Debt.

Obay the Law Reges-
ter & Vote.

Maxine Freels
1-27-62

A person cannot be put
in jail for a debt.

Obey the laws, uphold
the constitution and
exercise your privilege
of voting.

Luther Hamilton
2-10-62

A person can not be put
in jail for a debt.

obey all Laws. register
and Vote take part in
government affairs.

Annie B. Yarbrough
Myers
3-2-62

A person cannot be put
in Jail for a debt.

Obey the law & be a
qualified Voter.

Mary Pauline Bolls
Jones
3-2-62

A person can not be put
in jail for a debt.

obey the law & be a
qualified voter.

Eula B. Robinson (Mrs.)
3-7-62

A person can not be put
in jail for a debt.

obey all laws uphold
the constitution and
be a qualified elector.

Nelson Baker Wiggins
4-23-62

A person cannot be put
in jail for a Debt.

obey all laws Uphold
constitution Register
& Vote.

Laura Ann Welch
5-2-62

a person cannot be put
in jail for a debt.

(1) a oby all law
register and vote.

Bamma Waldrop Russell
6-29-62

A person can not be Put
in jail for a debt.

obey all the laws of
your State and govern-
ment. and exercise
the right to Vote.

Fred L. Williams
7-14-62

a person cannot be put
in Jail for a debt.

Obey the laws. Reges-
ter and vote.

[fol. 1621] (d) The following applicants wrote interpretations to Section 30 very similar to (c) above; the answers to question 20 were also very similar.

Name	Date of Application
Elrod, Cairdine E.	11-5-60
Elrod, Carrie Littleton	11-5-60
Ashley, Martha Ann F.	1-3-62
Russell, Geraldine Myers	10-12-61
Grafton, Shirley Odom	4-6-60
Keys, James Estus	6-28-60
Mullen, Billy	1-16-62
Berry, Carl Franklin	3-5-60
Whitehead, Irma Jean	1-23-62
Bishop, Kenneth Dewitt	5-25-62
Dear, Edna Maud Garrett	7-6-62
Lang, Nola May	1-30-61
Williams, Clara W.	10-19-61
Cook, Donald Keith	11-20-61
Boutwell, Minnie Lee	1-31-61
Lindsey, Nell Vaughn	7-31-62
Leonard, Edwin L.	9-24-62
Bowers, Myrie M.	2-4-61
Berch, Florence Lanell	2-4-61
Whittington, Shirley Jan	11-5-60

(e) Eight white registrants—verbatim interpretations, and answers to question 20 very similar.

	Q. 19	Q. 20
McGrew, Mrs. Edwin O. 6-1-60	Means I cannot be put in jail for an honest debt.	I support the Constitution of the United States, obey all laws of State & county.
Gray, Billy Jean 1-18-61	It means I cannot be put in jail for an honest debt.	I should & take part in public affairs, vote, uphold law and order, support schools & churches.
Scott, Mrs. William D. 2-1-61	It means that I can not be put in jail for a honest debt.	First of all, register and vote, take part of the community affairs—support churches and school.
Thompson, Myrtis Opal 2-1-61	It means that I can't be put in jail for an honest debt.	Support schools and Churches, Vote. Freedom of speech.
[fol. 1622]		
Prine, Alford Richard 9-27-61	It means that I cannot be put in jail for an honest debt.	Register & vote, take part in public affairs support schools, churches; uphold law and order.
Woods, Phillip O., Jr. 2-17-62	It means that I can not be put in jail for an honest debt.	register, and vote, take part in public affairs, uphold law and order, support school and churches.

Q. 19

Channell, James Melvin
3-1-62

It means that I cannot
be put in jail for an
honest debt.

Raney, Johnny Elwin
4-10-62

It means that I can not
be put in jail for an
honesty debt.

Q. 20

You have to obey all of
the laws and carry out
your duty of Voting.

The first thin that I
should do is register &
then vote. I should
support schools & churcha.
up hold law & order. and
take part in all public
affairs.

(f) Seven white registrants—verbatim interpretations
and also answers to question 20 very similar.

Q. 19

Upton, Dan Kenneth
3-21-60

I can not be put in jail
for an honest debt.

McGrew, Edwin O.
6-1-60

I cannot be put in jail
for an honest debt.

Singletary, Billie Sue
8-17-60

I cannot be put in jail
for an honest debt.

Hamrich, Nina Mae
Smith
11-11-60

I cannot be put in
jail for an honest
debt.

[fol. 1623]

Spraberry, Evelyn
Delores S.
4-3-61

I can not be put in
jail for an honest
debt.

Funchess, Virginia Ann
Carney
2-27-62

I cannot be put in
jail for an honest
debt.

Keys, Ruby Beatrice
4-17-62

I cannot be put in
jail for an honest
debt.

Q. 20

1 register and vote
2 defend free speech and
press 3 support school
and churches

I support the constitu-
tion of the United States,
obey all laws of State
& County.

Take part in public
functions, Obey laws,
Support schools and
churches, Register &
vote.

Register and vote. Par-
ticipate in local affairs
such as: schools, churcha,
charity, Uphold law and
order, free speech, and
free press.

Obey all the laws,
uphold the constitution,
be a qualified elector.

I should register and
vote and take part in
public affairs. I
should uphold law and
order, support the
schools, and churches
and be a good all-around
citizen.

obey all laws. Register
and Vote and uphold the
constitution.

(g) Seven white registrants whose forms contain slight variations in interpretations of groups (e) and (f) above.

Name	Date of Application
Wilson, Lena Crawford	1-4-62
McNair, Georgia Mae	2-1-61
Nobels, James Carlton	5-1-62
Young, Michael Bruce	1-20-62
Young, Jeanne Brewer	1-20-62
Little, Virginia Tanner	2-1-61
Richardson, Julia Ancaroni	5-10-61

(h) Ten white registrants similar to (e) and (f) above but omitted word "honest".

Name	Date of Application
Dell, Raymond F.	1-31-61
Bell, Otto K.	1-31-62
Crawford, Myrtis Myers	1-25-62
Dixon, Rosalee N.	10-22-60
Cupstid, Duie, Jr.	1-24-62
Long, Beulah	1-25-62
Varnado, Barbara Fay	9-29-62
Spurk, Raymond L.	1-18-61
Turnbow, Jo Gayle	1-17-62
Bailey, Mrs. R. B.	4-19-61

[fol. 1624] (i) 19 white registrants with almost verbatim interpretations. They are arranged in order of similarities in Question 20 (duties and obligations).

	Q. 19	Q. 20
Betty Young Owens 3-11-61	I can not be put in jail if I failed to pay my debt.	Honor my school & church and obey all the laws of my country.
Donald Wayne Miller 11-4-61	I cannot be put in jail if I fail to Pay my debts.	Honor my school, church and country an obey all laws.
Mrs. Flo Erwin Reasley 1-17-62	I cannot be put in jail if I fail to pay my debt's	under my school, church and country.
Bernice Sykes Walls (Mrs. Carlos, Jr.) 1-28-61	I cannot be put in jail if I fail to pay my debt.	Honor my school, church and country.
Marion E. Bates 2-1-61	I cannot be put in jail if I dont pay my debt.	honor my church and shool and obey my contintion.
Gary Boes Sandifer 1-30-61	I cantnot be put in Jail if I fail to pay my dep.	Obey all laws of my country.
Annie V. Parham Hamilton (Mrs. C. C.) 12-14-61	I can not be put in jail if I fail to pay my dierets.	Obey all Laws for my State and country.

Q. 19

Donald Scott
Jackson
1-22-62

I can't be put in
Jail if I fell to
pay my debt.

Melba Lois Jones
Allen (Mrs. Earl)
1-27-62

I can not be put in
jial if I fail to
pay my debts.

Roy Eugene Drew
2-3-62

I can not be put in
jail if I fail to pay
my debt.

[fol. 1625]

Eugene Myers
2-5-62

I can not be put in
jail if I fail to to
pay my debts.

Hilda Alice Strong
Nixon
4-7-62

I cannot be put in
jail if I fail to
pay my debts.

Charles Walls Jr.
1-28-61

I cannot be Put in
jail if I fail to
pay my debts.

John Poche III
1-4-61

I cannot be put in
jail if I fail to
pay my debts.

Robert M. Strong
3-5-62

I cannot be put in
jail if I do not
pay my debts.

Joey Lee Carr
11-13-61

I can not be put in
jail if I fail to
pay my debts.

Thomas Hailey
Thedford
9-28-61

I can not be put in
prison if I fail To
pay my Debts.

James Howell
Ahrend
9-16-61

I cannot be confined
in any jail or prison
if I fail to pay my
debts.

Harry W. King
3-20-62

I cannot be put in
jail if I fail to
pay my debts.

Q. 20

Retain my right to
vote and obay alle
laws.

Reserve the Right
to vote and obay
all laws.

Pay my pole tax,
exercise my right
to vote, and to obey
all laws.

Obey all the Laws
of my country.

Exercise my right
to vote and obey
all laws.

obey all the Laws
of my country.

to honor, obey all
the laws, uphold the
constitution and to
be a qualified
elector.

Obey all laws of
my county, State
and country.

I Honner my Flag
and country.

I will honor my
flag & country
& obey all laws.

I will honor my
flag, country,
and church and obey
all laws of my
government.

Honor my flag an
country and obey
all laws to my
country

[fol. 1626] (j) 31 white registrants almost verbatim interpretations.

Q. 19

Mary Elizabeth Miksa
10-20-60

It means exactly what it says. I cannot be placed in jail because of an honest debt.

Q. 19

Juanita Elizabeth E.
Bobbitt
11-7-60

It means exactly what it says—you cannot be jailed for an honest debt.

Harold Colon Boone
11-9-60

It ment just what it said, I don't be put in jail for a honest debt.

Helen Young Bowman
(Mrs. Louis V.)
11-11-60

It means exactly what it says I cannot be put in Jail for a honest debt.

Herbert Ray Hynum
12-28-60

It means exactly what it says I can not be Put in hail for and honest debt.

Lendeen Sue Hynum
12-28-60

It means What is says
I can not be put in jail for a honest debt.

Joy Hitson Lowery
(Mrs. Robert M.)
1-10-61

Exactly What it says
I can not be put in jail for and honest debt.

Virginia Black Fugate
(Mrs. Harry S.)
1-10-61

It means exactly what it says.
I cannot be put in jail for an honest debt.

Quitman S. Munn Jr.
1-12-61

it means what it says
I can not be put in jail for honest debt.

James Nelson Stepp
1-18-61

Means Just what it said I can not be Put in Jail for a Honest Debt.

Mrs. Paul Norwood
(Iva Lou)
1-18-61

It means exactly what it says
I cannot be put in jail for an honest debt.

Eddie Rex Bartee
1-30-61

It means what it says
I can not be placed in Jail for an honest debt.

[fol. 1627]

Mary Kate Greene
1-30-61

It means exactly what it Says—
can not be placed in Jail for an honest debt.

Olive Poter Jones
(Mrs. Grady, Sr.)
7-11-61

It means exactly what it says. I cannot be placed in jail for an honest debt.

James Norris Bailey
1-13-62

It means exactly what it says. I cant not be placed in Jail for an honest Dept.

Minnie Lee Bailey
1-13-62

It means exactly what it says. I cannot be placed in jail for an honest debt.

Hughrene Lower James
(Mrs. W. H.)
1-17-62

It means exactly what it says. I can not be placed in jail for an honest debt.

Dorothy D. Furr
5-5-62

Exactly what it says.
I cannot be put in jail for an honest debt.

[fol. 1628] (k) 14 white registrants. All contain minor variation of standard interpretations previous set out. Each contains as one the duties of citizenship, be a "qualified elector."

Q. 20

Rae Roberts McKnight
12-30-60

To obey all laws, uphold the constitution, and be a qualified elector.

Billy Beck Ashley
1-3-62

Obey laws uphold constitution, be a qualified elector.

Maxine, Page Johnson
(Mrs. James)
1-15-62

abide all law uphole Mississippi constitution and be a qualified elector.

Mamaie Nell Bell
(Mrs. John C.)
1-22-62

obey laws. qualified electro

Noa Mae Weiter
(Mrs. John A.)
1-31-61

Pay all my debts, pay my taxes and be a qualified elector—

Leva Dell Smith
8-23-61

Be qualified elector, uphold the constitution and obey all the laws.

Sarah Holmes Spohrer
1-23-61

obey laws
uphold constitution.
be qualified elector

Claude Talmadge
McNeill
1-27-61

Obey all laws
Be a qualified elector

Leonard Carl Savell
1-31-61

Obey all the laws, and obey the Constitution, and be a qualified elector.

Virginia Rae Cupstid
(Mrs. Duie Lee, Jr.)
1-31-62

Obay all the laws
uphold your constitution
support the laws of the land
be a qualified elector

Carolyn Myers
Whittington
(Mrs. Bobby Joe)
2-6-61

To obey all laws—uphold the constitution and be a qualified elector

[fol. 1629]

Janie Ophelia Beasley
Granger
(Mrs. Herman, Jr.)
2-20-62

abide by all the laws, be a good citizen, be a qualified elector.

Doris Evelyn L.
Howard
(Mrs. Albert)
9-27-62

duty of a good citizen to obey all laws and to be a qualified elector.

Joyce Louise Hall
12-28-61

Obey all the laws, uphold the Constitution, and be a qualified elector.

[fol. 1630] (3.) Pattern answers were not restricted to Section 30, although few persons received Sections the following are examples of pattern answers.

(a) 23 white registrants with groups of very similar interpretations of Section 22 (double jeopardy), and similar statement of duties and obligations.

	Q. 19	Q. 20
Mary Nell Teasley 1-30-61	A person cannot be tried twice for the same offense.	be a qualified elector. obey all the laws. up hold the constitution.
Robert Wade Weathersby 1-26-62	a Person cannot be tried twice for the same offense	Obey all the laws and be a qualified elector
Nonnie Mae Norman 1-29-62	A person cannot be tried twice for the same offense	obay the laws upon constitution Register and vote
Doris Marie Parson 12-26-62	A person cannot be tried twice for the same offense	exercise your priviledge of voting obey all the laws.
Johny Lee Parsons 12-26-62	a person can not be tried twice for the same offense	Register and Vote Obey all laws
Hansel Miller Roberts 1-31-62	no persons can be tried twice for the same offense	aboy all laws off the state off miss and Register and voote
Minnie Belle Price Roberts 1-31-62	No person can be tried twice for the same offense	Obey all the laws of the state register and vote
Kaye Frances Walker Crews 1-30-62	can't be tried twice for the same offense	obey the laws to be a good citizen have to register to Vote
Nell H. Perrett 1-31-62	that a person cannot be tried twice for the same offence	obey the laws, register to vote.
Sara Frances Cupit 1-26-62	No person can be tried twice for the same offence	obey all laws uphold constitution exercise your priviledges of voting.
[fol. 1631]		
Bertha Faye Starnes Thornton 1-26-62	No person can be tried for the same offense. twice.	To vote and obey all the laws.
Willie Ray McLendon 1-29-62	It means that no person can be tried twice for the same offense	you have to obev the laws & be a qualified Elector
Thomas Eugene Hodges 10-21-60	cannot be tried twice for the same offence	Register and vote Take part in public affairs Support schools & churches Defend free speech & freedom of press

	Q. 19	Q. 20
Ide Bell Perkins 12-17-62	It mean can not be tried or the same crim	I sude Register and Vote. And I sude uphold law an order and take in public affairs, also I sude support school and churches
John Mack Smith 3-30-62	no person shall be tryed twice for the same crime.	obey the laws set forth by the Gov't. Be a qualified elector
Shelby Gene James 1-30-62	It means a person cannot be tried twice for the same crime.	you have to obey all laws up hold constitution to Register and to vote, to.
Iva Viola Smith 1-30-62	No person can be tried twice for the same crime.	Obey all the laws of my state, and country. and be a qualified electro.
Margaret J. Jasper 1-30-62	No person can not be convicted for the same crime twice	Obey all the laws of the United-States constitution.
Norman C. Jasper 1-30-62	You cannot trited for the same crime twice	Obey all laws of my state, and constitution
Callie Smith (Miss) 1-30-62 [fol. 1632]	No person can be tried for the same crime twice	Obay all the laws of my State and country and be a qualified elector
Vance H. Patterson 3-24-62	I can not be convicted of the same crime twice.	Q. 20 oner my flage and obey all laws
Patricia Ann Russum 4-23-62	A person cannot be tried for the same crime twice.	A citizen must obey all laws stated in the constitution; must be a qualified elector, and has the right to vote for the party or person of his choice. He is obligated to uphold the constitution:
William Thomas Finley 4-23-62	That no person can be convicted of the same crime twice.	My duties and obligations as a citizen should be to uphold the laws provide and to take part in all elections.

[fol. 1633] (b) 4 White Registrants who received Section 9, "The military shall be in strict subordination to the civil power."

	Q. 19	Q. 20
Margi M. Johnson 3-15-62	The civilian authorities always out rank the military	register & vote. Take part in public affairs uphold law & order support schools & churches uphold & defend free spe ach & free press.

William Duncan Day
3-15-62

Q. 19
The civil authorities
always out rank the
military

Q. 20
register and vote
take part in public
affairs, support
schools and churches
uphold and defend
free speech and press.

Albert N. Cheroni
4-10-62

Civilian Authority always
out ranks the Military

Register and then
Vote. I Should take
part in public affairs.
I Should support
schools and churches
and uphold law and
order, and defend free
speech and free press.

Lou Alice Cheroni
4-10-62

Civilian authority always
out ranks the Military

Register and then Vote.
I should take part in
public affairs. I
should support schools
and churches and uphold
law and order; and
defend free speech
and free press.

[fol. 1634] c. Grading.

1. The interpretations of the following white registrants indicate that the applicant was registered without his form having been graded. The sections assigned to each applicant are set forth above his name, date of application and interpretation.

Section 20

No person shall be elected or appointed to office in this state for life or during good behavior, but the term of all officers shall be for some specified period.

Donald Wayne Cooper
6-26-61

Each district, county, and state
official is elected by majority
vote.

Section 22

No person's life or liberty shall be twice placed in jeopardy for the same offense; but there must be an actual acquittal or conviction on the merits to bar another prosecution.

Catherine Ann Parsons Patterson
3-24-62

I must be acquitted before I can be
tried for the same crime twice.

Section 25

No person shall be debarred from prosecuting or defending any civil cause for or against him or herself, before any tribunal in the state, by him or herself, or counsel, or both.

Robert Wealey Weathersby
2-7-62

I can by self own causes in any suit.

Jacob Hardy Twiner
12-29-62

It gives the accused the right to be
heard by himself or counsel.

[fol. 1635] The following six applicants all received Section 30.

Section 30

There shall be no imprisonment for debt.

Cecil Paul Brent
6-6-60

You can't be put in jail for
enoughtness debt.

Adrian Edward DeYoung
10-11-60

Debts incurred by a term may not
be penalised by a prison sentence.

Mary Katherine Cline
1-19-62

I must pay all my debt.

Girer Coper
4-7-62

I must Pay all Debts

Ethel Mae Griffin
5-21-62

I must pay all my debts.

Earl Clarence Arnold
10-8-62

all debts must be paid.

[fol. 1636]

Part III

The Government believes that the following Negro citizens of Copiah County who filled out application forms were denied registration because of Section 244 of the Mississippi Constitution:

15010	Georgia Mae Dodds	(Between 1955 and 1957)
	Edith Callahan	(Between 1953 and 1957)
15007	Odessa Mae Crisler	(1-30-62)
15001	Frank Alexander	(1-30-62)

The application forms of the first two of the above Negro citizens were not preserved by the Circuit Clerk. Where the applicant has been interviewed by the Department of Justice, the number assigned that person is set forth to the left of his name.

[fol. 1637]

Franklin County #48

Part I

A

The following Negro citizen was not permitted to register to vote because of the good moral character test. He applied to register to vote at the Circuit Clerk's office in Franklin County.

19002	1- -63	He was rejected because of a conviction for assault and battery.
	Rejected	
	Dean, D.C.	

B

The following Negro citizen of Franklin County was not permitted to apply to register to vote. This occurred at the Circuit Clerk's office in Franklin County.

19008	About 1958	He was registered before the war (II). Some years after the war he tried to vote, but was told that this name was "off the books". He went to see Mrs. Foster (Clerk) about this and was told that "It could be for many reasons", and that she "didn't know" how he could get back on. He returned again and was told by Mrs. Foster, "I can't help you". Has not been back since.
	Rejected	
	Foster	

[fol. 1638]

Hinds #49

Part I

A

The following Negro citizens of Hinds County were delayed in applying to register to vote. All events described below occurred at the Circuit Clerk's office in Hinds County.

- | | | |
|-------|---|---|
| 25038 | June,
1963
Delay
Accepted
Deputy
Registrar | She applied for registration in June, 1963. This was second attempt to register. Had to wait from 9:00 A.M. until 11:30 A.M. before getting in to register. Only 3 or 4 Negroes allowed to register at a time. Whites allowed to register without waiting. When she did get in to apply she filled out a form and was registered. |
| 25013 | 6/26/63
Delay
Accepted
Deputy
Registrar | Went to register on about 6/26/63, after having been rejected on previous two days. Was given form to fill out and section 127 to interpret. Passed. Had to wait over an hour to register. |
| 25044 | 7/1/63
Delay
Deputy
Registrar | Went to register on 7/1/63. Arrived at 1:00 P.M. but left after waiting until 4:40 P.M., when it became apparent she would not get in that day. |
| 25020 | about
7/1/63
Delay
Rejected
Deputy
Registrar | Went to register on about July 1, 1963. After waiting about one hour, finally got in. Was given form to fill out and section 27 to interpret. Did not pass. Although there were vacant chairs available, only 4 Negroes were allowed to register at a time. |

25081 7/1/63
 Delay
 Rejected
 McLeod-
 Dep. Reg.

On July 1, 1963 he went to register with Annie Bell Alexander and Lavone Blackwell at about 1:00. Many Negroes were waiting in line to register. They were only taking 4 at a time. White people did not have to wait in line. He finally got to apply about 20 minutes to 5. He was given sec. 126 to interpret and after Mr. McLeod questioned him about his interpretation he was rejected.

[fol. 1639]

25033 7/1/63
 Delay
 Deputy
 Registrar

Appeared for second attempt to register on 7/1/63, at 4:00 P.M. Was not able to get in to register before office closed at 5:00 P.M.

25036 7/1/63
 Delay
 Rejected
 Deputy
 Registrar

Attempted to register on 7/1/63. Had to wait from 1:20 to 3:40 before getting chance to register, was given a form to fill out and section to interpret. Was told her interpretation incorrect, and rejected.

25036 7/2/63
 Delay
 Rejected
 Deputy
 Registrar

Applied for second time on 7/2/63. Had to wait from 1:00 P.M. until 3:45 P.M. before getting in to register. Was given form to fill out and section to interpret. Was told answer wrong, and rejected.

25031 7/2/63
 Delay
 Accepted
 Deputy
 Registrar

He made his second attempt to register on 7/2/63. He went to register with Ann Alexander and Angelson Ensley at about 11 A.M. Many Negroes were waiting in line to register. They were only taking 4 at a time. White people did not have to wait in line to register. He finally got to apply around 3:30. He was given sec. 139 to interpret and then was registered.

- 25000 7/2/63
Delay
Rejected
Deputy
Registrar
Went to registration office on July 2, 1963 at 3:00 P.M., and waited until 4:35, when Registrar said they weren't taking any more that day. Same thing occurred the next day. Went back July 5 and after short wait was given application and section 127 to interpret and was rejected.
- 25001 7/2/63
Delay
Accepted
Deputy
Registrar
Went to registrar's office July 2, 1963 at 11:00 A.M., with two other persons. About 30 other people waiting. Did not get in until 4:00 P.M. Given section 92 to interpret by Deputy Registrar. Deputy said her answer was "OK", and gave her a slip.
- [fol. 1640]
- 25002 7/2/63
Delay
Rejected
Deputy
Registrar
Applied to register once on 7/2/63, and twice on 7/5/63; rejected on all three occasions, had to wait in line for long period of time while whites who came after her got right in.
- 25004 7/2/63
Delay
Deputy
Registrar
Went down with wife to register on 7/2/63. Waited from 2:00 P.M. until 5:00 P.M., but was not able to get in. They were only processing four Negroes at a time. Observed whites being processed without having to wait.
- 25006 7/2/63
Delay
Accepted
Deputy
Registrar
Went to register on 7/2/63. Waited from 1:00 P.M. until 3:30 P.M. before getting form. Was given section 92 to interpret. Was accepted on this attempt.
- 25012 7/2/63
Delay
Rejected
Deputy
Registrar
Went to register on 7/2/63, at about 10:00 P.M. Had to wait in line until about 1:45 P.M. before attempting to register. Was given form to fill out and section 126 to interpret. Was rejected.

25019 7/3/63
Delay
Rejected
Deputy

Third attempt to register was on 7/3/63. Was given form to fill out and section 63 to interpret. Was rejected. Had to wait from 9:30 A.M. until 1:00 P.M. before getting in to apply.

25004 7/3/63
Delay
Accepted
Deputy
Registrar

Went down to register with wife on 7/2/63. Waited from 2:00 P.M. until 5:00 P.M. but did not get in. Went back the following day, was given form and section 73 to interpret. Passed on this attempt.

25017 7/3/63
Delay
Accepted
Deputy
Registrar

Went to register on July 3, 1963. Waited from 8:30 to 11:40 before getting in to register. Filled out form and passed.

[fol. 1641]

25040 7/3/63
Delay
Deputy

Went for second attempt to register on 7/3/63. Arrived at 1:30 but did not get in because office closed at 5:00 P.M. Whites who came later were allowed to enter and register without waiting.

25005 7/3/63
Delay
Rejected
Deputy
Registrar

Went to register at 10:00 A.M. on 3 July 1963. Waited in line until 4:30 P.M. They only allowed a few Negroes in the office at one time. Was given form to fill out and section 20 to interpret. Was told by Deputy Registrar he "missed it by one word."

25010 7/3/63
Delay
Rejected
Deputy
Registrar

Went to register on July 3, 1963, at 9 A.M. Waited in line until 12:15 before getting in to register. They took 4 Negroes at a time. Was given form to fill out and section 83 to interpret. Was told by Deputy Registrar that she did not pass.

- 25011 7/3/63
Delay
Accepted
Deputy Registrar
Went to register on July 3, 1963 at 9:00 A.M. Waited until 12:15 to get in to register. They were allowing only 4 Negroes to register at one time, although whites who came later were allowed to go in without waiting. Was given a form to fill out, and section 73 to interpret. Was accepted.
- 25039 7/5/63
Delay
Rejected
Deputy Registrar
Applied for registration for first time on 7/5/63. Was given form to fill out and section to interpret. Was rejected. Was told could not re-apply until after the August 6 election.
- 25025 7/5/63
Delay
Rejected
Deputy Registrar
On second attempt to register was given form to fill out and section 144 to interpret. Deputy Registrar told her she did not pass, and not to return until after August 5th.
- [fol. 1642]
- 25037 7/5/63
Delay
Deputy Registrar
Went down to register on 7/5/63 with 4 other Negro women. Was told could not register until after the Aug. 6 primary election.
- 25008 7/8/63
Delay
Deputy Registrar
Went to register on July 8, 1963, but was told by Deputy Registrar that he could not register because the books were closed.
- 25005 7/10/63
Delay
Went down to register on July 10, 1963. The door was locked and he did not get to register. The office was closed for registration.
- 25016 7/15/63
Delay
Deputy Registrar
Went down to register on 7/15/63, at 9:30 A.M., with 4 other Negroes. Was told by Clerk inside office that she could not register because the books were closed until after the primary election.

25018 7/15/63
Delay
Deputy
Registrar

Went to register on 7/15/63 at 9:30 A.M. with 4 other persons. Was told by Clerk at the counter that she would not be able to register until after the primary election, because the books were closed until then.

25022 7/15/63
Delay
Deputy
Registrar

On 7/15/63 took four Negro women to the Clerk's office to register. Group was told by lady in office that the books were closed until after the primary election on August 6, and no one could register until after that time.

25030 7/15/63
Delay
Deputy
Registrar

Went to register on 7/15/63 with 4 other Negro women. Was told by lady behind counter that she could not register until after the primary election on August 6 because the books were closed until then.

[fol. 1643]

Holmes #50

Part I

A

The following Negro citizens of Holmes County were not permitted to pay poll taxes. The events described below occurred in the Sheriff's office in Holmes County.

26021 1955
Sheriff
Byrd

Sheriff Byrd permitted him to pay poll tax but advised him not to pay for his own safety.

26026 1952-1956
Sh. Byrd

Tried to pay his poll tax and was told by the sheriff that he didn't want Negroes paying their poll tax and registering.

26043 1956
Sheriff
Smith

Went to the courthouse to pay his property tax; after doing so he attempted to pay his poll tax; sheriff would not let him pay.

- 26054 1956
Sh. Smith Went to the sheriff's office to pay his property tax; attempted to pay his poll tax; sheriff told him he couldn't pay.
- 26056 1956 Stopped paying his poll tax after he heard that the sheriff had refused to let Isadore Montgomery and Ralthus Hayes pay theirs.
- 26088 Dec. 1956
Sh. Smith Went to the county courthouse to pay taxes; paid his property tax and asked to pay his poll tax; was told by the clerk and the sheriff that Negroes would not be allowed to pay poll tax.
- 26087 Jan. or
Feb. 1958 Went to the county courthouse to pay his taxes; asked to pay his poll tax and was told by the female clerk that "the books were closed."
- 26032 1959 or
1960 Was told the books weren't open when he tried to pay his poll tax after paying his property tax.
- 26021 1961
Sh. Smith Went to sheriff's office to pay his property tax; paid his property tax and was told to see the Deputy Sheriff to pay his poll tax; Deputy Sheriff cursed him and told him to get out.
- [fol. 1644]
- 26007 1963 He has not tried to pay his poll tax because he was aware of the difficulties encountered by other Negroes attempting to pay theirs (i.e., Cesar Leflore, Bennie Price, Isadore Montgomery).

B

The following Negro citizens of Holmes County were delayed in their attempts to register to vote in Holmes County. The events described below occurred at the Holmes County Courthouse.

- 26090 4-9-63
Delayed
McClellan—R
Smith—
Dep. Sh. Between 9 and 10 A.M., went to the county courthouse to register with a group of 12 or 13 other Negroes; were told to disperse and wait under a tree until called; Sheriff took pictures of them as they assembled under the tree; was called into the office at or about 3 P.M.; was given a form and section 16 to copy and interpret; filled out form and was told that he would hear in 30 days.
- 26082 4-9-63
Delayed
McClellan—R
Smith—
Dep. Sh. Went to the courthouse to register with a group of 12 or 13 other Negroes; was told to disperse and wait under a tree until called; waited the remainder of that day and left.
- 26042 4-9-63
Delayed
McClellan—R
Smith—
Dep. Sh. Went to county courthouse to register with a group of 12 or 13 Negroes; was told to disperse and wait under a tree to be called into the office; waited remainder of that day; was not called and went home.
- 26010 4-9, 10-63
Delayed
McClellan—R
Smith—
Dep. Sh. Went to the registrar's office with a group of 12 or 13 other Negroes; the group was told to disperse and wait under a tree; waited remainder of that day and returned the following day; was called into the office on the 2nd day; was given an application form to complete and section 7 of the constitution to copy and interpret; she completed the form and was told that she would be notified in 30 days.

[fol. 1645]

Part I

B

26005 4-9, 10-63

Delayed
McClellan-R
Smith-
Dep. Sh.

Went to registrar's office with a group of 12-13 other Negroes to attempt to register; they were told by the sheriff to disperse and assemble under a tree; waited under the tree the remainder of the day while 2 of the group were called into the office (Mr. Turnbow and Mr. Wesley); returned the following day and waited under the tree until early afternoon when she was called into the office; was asked a variety of personal questions by the Clerk and was given an application form to fill out; completed form and left.

26006 4-9, 10, 11-63

Delayed
McClellan-R
Smith-
Dep. Sh.

Went to registrar's office with a group of 12-13 other Negroes to attempt to register; they were told by the sheriff to disperse and assemble under a tree; waited under the tree the remainder of that day and all of the following day; was called into the office on the third day; he was asked a variety of personal questions and then given a form to fill out; he did so and left.

26009 4-9, 10, 11,
12-63

Delayed
McClellan-R
Smith-
Dep. Sh.

Went to register with a group of 12 or 13 other Negroes; was told to disperse and wait under a tree; waited the remainder of that day; returned and waited under the tree on the second day and third day and was called into the office on the afternoon of the fourth day; Clerk asked him a variety of personal questions and gave him a form to fill out; he completed it and left.

26021 4-10-63
Delayed
McClellan-R

At or about 10 A.M. went to the county courthouse with 12 or 13 other Negroes to register; was told to disperse and wait under a tree until called; waited the remainder of that day and returned the following day at or about 9 A.M., was called into the office around 11:30 A.M. and was told it was time for lunch and to come back at 1 P.M.; he did so; filled out the form and left.

[fol. 1646]

26060 4-12-63
Delayed
McClellan-R

Went to the county courthouse to register with Mr. O. Mitchell at or about 8:30 A.M.; was told to go under a tree and wait until called; was called into the office at or about 11 A.M.; was asked a variety of personal questions and then given a form and section 32 to copy and interpret.

26083 4-12-63
Delayed
McClellan-R

Went to county courthouse to register with Mr. C. Lacey; arrived at or about 8:30 A.M.; Mr. Mitchell, Mr. Redmond and Mr. Kennedy were already there waiting under a tree to be called; waited until he was called sometime that afternoon; was given a form and section of the Constitution to copy and interpret; filled out the form and was told he would be notified of results in 30 days.

26082 4-12-63
Delayed
McClellan-R
Smith-
Dep. Sh.

Went to the courthouse to register; was called into the office and told to go directly home after filling out form; completed form and left.

26042 4-12-63
Delayed
McClellan-R

Went to county courthouse to register; waited under a tree until called into the office; completed form and left.

26077 4-12-63
Delayed
McClellan-R

Went to the county courthouse to register with his wife; arrived at or about 11 A.M. and joined Mr. Lacy, Mr. Kennedy, and Mr. Square who were already there gathered under a tree waiting to be called into the office; was called into the office at or about 4:40 P.M.; was told that he would have to fill out the form in 20 minutes or come back some other time; decided to come back some other time.

[fol. 1647]

26018 4-15-63
Delayed
McClellan-R

Went to the county courthouse to register with his daughter, Mrs. J. Lovie; arrived at or about 8:30 A.M. and waited to be called into the office; Mr. Washington, Square and McCreary arrived shortly thereafter; was called into the office at or about 4 P.M.; was asked a lot of questions and given a form and section 76 to copy and interpret.

26012 4-16-63
Delayed
McClellan-R

Went to the county courthouse to register with Mr. P. K. Delaney; Mr. W. J. Burns was already there waiting under a tree; waited under the tree all morning and afternoon; was told to go into the office by a deputy sheriff at or about 4 P.M.; was given a form and section 20 of the Constitution to copy and interpret after being asked a variety of questions by the Clerk; filled out form and left.

26019 4-16-63
Delayed
McClellan-R

Went to county courthouse to register with her daughter-in-law, Mrs. C. Hayes; arrived at or about 9 A.M. and went directly under the tree to wait to be called into the office; someone came out and looked at them shortly after they arrived but she was not called into the office until early afternoon; she was given an application form and section 28 to copy and interpret. She handed form to clerk and was told she would know in 30 days.

26016 4-16-63
Delayed
McClellan-R
Smith-
Dep. Sh.

Went to county courthouse to register with a group of 12 or 13 other Negroes; were told to disperse and assemble under a tree; picture was taken by Sheriff when he got to the tree; waited under the tree the remainder of that day; all of the next, and was called into the office at or about 4 P.M. on the third day; was asked a lot of questions and given a form and section 76 of the Constitution to copy and interpret.

[fol. 1648]

26017 4-16-63
Delayed
McClellan-R

Went to county courthouse to register with mother-in-law, Mrs. Emmett Hayes; arrived at or about 9 A.M. and were observed by the Sheriff; were joined by Mr. and Mrs. P. K. Delaney and Mr. Robert Head; was called into the office at or about 11 A.M.; was told to wait for Circuit Clerk who arrived at or about 11:30 A.M.; was told to come back at 1 P.M.; returned at 1 P.M. and was given a form and section 30 to copy and interpret; was asked a lot of questions while filling out form; completed form and was told that she would know results in 30 days.

- 26003 4-17-63
Delayed
McClellan-R Went to the registrar's office alone at 8 A.M. and asked for an application to register; was told to wait outside under a tree until called; he did so and was joined there by Mrs. Nancy Epps and Mr. P. K. Delaney; he waited until 3:30 p.m. without being called and then left; he returned the following morning and again waited under the tree until he was called into the office at or about 3 P.M.; he was asked personal questions and then given a form to fill out; he completed the form and left after being informed that he would be notified of results.
- 26077 4-18-63
Delayed
McClellan-R Went to the courthouse to register with Mr. Square, Mr. E. Hayes, and Mrs. J. Louie; waited under tree until called into the office some time in the afternoon; was given a form and section 1 to copy and interpret; handed in form and left.
- 26081 4-23-63
Delayed
McClellan-R Went to county courthouse to register with Mr. Hoskins and Mrs. Howard; arrived at or about 10 A.M. and waited under a tree until called into the office sometime in the afternoon; was given a form and a section of the Constitution to copy and interpret; filled it in and then left.
- [fol. 1649]
- 26085 April, 1963
Delayed
McClellan—R Went to the county courthouse to register with Mrs. Wallace. Registrar asked him a variety of personal questions before permitting him to fill out form; told him he would have to fill out the form in the half hour remaining before lunch; came back after lunch and filled out form.

- 26085 April, 1963
Delayed
McClellan—R Went to courthouse to register with Henry Thomas, Estelle Cade, and her sister; seven or eight other Negroes were present in the clerk's office; sheriff told them not to loiter in the hall and to go outside and wait under a tree for their turn to go into the office; it was raining and he left.
- 26069 April, 1963
Delayed
McClellan—R Went to the county courthouse to register on the same day that a group of 10 or 12 other Negroes were attempting to register; he joined this group waiting under a tree to be called at or about 1 P.M. He waited there the afternoon of that day; most of the next day and part of the third day; in the afternoon of the third day he asked the Sheriff and a reporter to stop taking his picture; the Sheriff told him to stop talking; he left and did not return.
- 26022 April, 1963
Delayed
McClellan—R Went to the courthouse to register; waited under a tree to be called from 8:30 A.M. to about 4 P.M.
- 26023 April, 1963
Delayed
McClellan—R Went to courthouse to register; waited under tree until called, waited from 9 A.M. until 2:30 or 3:00 P.M. when she was called into the office; was given a form and a section of the Constitution to interpret; filled in the form and returned it; was told she would know in 30 days.

[fol. 1650]

- 26029 April, 1963
Delayed
McClellan—R Went to the courthouse to register with Mr. S. Redmond; arrived at or about 9 A.M.; waited under a tree until he was called into the office sometime in the afternoon; was given a form and a section of the Constitution to copy and interpret; handed form to Clerk and was told that he would know in 25 days.

- 26030 April, 1963
Delayed
McClellan—R Went to the county courthouse to register with Mr. Brandon; arrived at or about 9 A.M.; Mr. Kennedy and Mr. Pitchford were already there under a tree waiting to be called into the office; was called into the office at or about 11 A.M.; was asked a lot of questions and then given form to fill out; at 11:30 he was told to come back at 1 P.M.; he came back at 1 P.M. and was told to stand in the hall until the Clerk came in; he completed the form after the Clerk returned, handed it in, and was told he would know in 30 days.
- 26036 April, 1963
Delayed
McClellan—R At or about 8:30 A.M. went to county courthouse to register with Mr. Washington and another Negro. They were told to wait under tree until called; was called into the office sometime in the early afternoon; was given a form and section 1 to copy and interpret.
- 26084 April or
May, 1963
Delayed
McClellan—R Went to the county courthouse to register with his wife and Mr. Head; waited until 5 P.M. and went home; returned the following morning with Mrs. Epps; was called into the office at or about 2 P.M., was given a form and section to copy and interpret; was told he would hear from the Clerk in 30 days.
- 26086 April or
May, 1963
McClellan—R Went to the county courthouse to register with Mr. Delaney; arrived at or about 9:30 A.M. and waited under a tree to be called; was called into the registrar's office at or about 4 P.M. was told he would be told results in 30 days.

[fol. 1651]

Leake Co. #51

Part I

A

The following Negro citizens of Leake County filled out application forms and were told the Board would have to pass on their forms. The events described below occurred in the Circuit Clerk's office in Leake County.

- | | |
|---|---|
| <p>40014 Feb. 1959
Delayed
Rejected
Horn—R</p> | <p>Went to Clerk's office with her husband. Interpreted Section of Mississippi Constitution. Horn told her a Board must pass on her application. Sometime later, she checked back and Horn told her she failed.</p> |
| <p>40015 1/31/61
Delayed
Told
Rejected
Form
Rejected
Name on
Reg. Books
Collier—R</p> | <p>Applied on January 31, 1961 and received Section 241 to interpret. Registrar Collier was helpful in explaining form. Left question 20 (duties and obligations) blank. Collier told him "Board" must meet to determine if he passed. On April 20, 1961, secretary in Collier's office told him he failed. "Should have signed" written on form, but he did sign. Form marked passed and his name is on Registration Book for May 3, 1962.</p> |
| <p>40010 3/6/61
Delayed
Accepted
Collier—R</p> | <p>He went to office of Registrar to find out why he could not vote in the 1960 election. Collier said the law had been changed and he must pass a test. He completed a form and received Section 241 to interpret. Collier told him the "Board" would have to act on his application. He checked back three times and could never learn whether or not he passed. In early 1962, Collier told him he passed.</p> |

40009 7/28/61
Delayed
Rejected
Collier—R

Went to register with Mrs. McDonald. He received Section 241 to copy and interpret. Collier asked him orally how you vote and he said "secret ballot". Collier told him a Board would meet to decide if he passed or failed and that there was no election till next year anyway.

[fol. 1652]

40008 7/29/61
Delayed
Rejected
Collier—R

Went to register with Mrs. Winson Hudson. Received Section 241 to interpret. She was told that the Board must consider their applications and would not meet until April 1962. In April, 1962, she returned and was told that the Board was working on her application. On October 27, 1962, she was told by Mr. Collier that he was unable to locate her form.

40011 7/29/61
Delayed
Rejected
Collier—R

She went to apply with Mrs. Dovie Hudson. She received Section 241 to interpret. She did not sign the form because she was waiting for Mr. Collier to do so. They were told there would be no action on the form until the Board meets in April 1962. In April, 1962, they returned and Mrs. Collier told them their applications were being worked on. On October 9, 1962, she was told she failed.

40005 5/8/62
Delayed
Rejected
Collier—R

She went with Mrs. Docia Jackson. Collier gave her Section 241 to interpret. They were not told whether or not they passed, but were told someone would let them know; she has not been informed of the result.

[fol. 1653]

Leake Co. #51

Part I

B

A re-registration was begun in Leake County in 1948. Many white persons were apparently re-registered by leaving their names copied into the new registration books. The following Negro citizens of Leake County have experienced difficulty in determining if they are currently registered to vote in Leake County. The events described below occurred in the Circuit Clerk's office in Leake County.

- | | | |
|-------|---|---|
| 40016 | About 1956
or 1957
Horn—R | In 1956 or 1957, he tried to vote at Free Trade Precinct in a cotton quota farmer's election and was not allowed to do so because his name was not on the precinct poll book. He went to see Registrar Horn in Carthage, and Horn told him he was in Ebenezer precinct but that his name was not on the poll book there either. |
| 40016 | About 1958
Horn—R | On about 1958, he tried again to vote in the cotton quota election. Unknown election officials told him his name was not on the precinct poll book. He again went to see Registrar Horn, who never found his name and never told him whether he was registered or not. |
| 40016 | 1960 and
1961
Not told if
he could vote | In 1960 and 1961, came to ask Collier if his name was on the poll book. On each occasion, Collier said he could not find the book. |
| 40024 | About
August 1960
Told name
not on book
Collier—R | He went to see Mr. Collier before the 1960 election to determine if his name was on the Precinct Poll Book. Mr. Collier said it was not previously registered in Leake County. |

40002 Nov. 1960 Collier told him, in response to an inquiry that his name was on the "big" book but not the "small" book. He would not directly respond to the question whether he could vote in the November 1960 election.

[fol. 1654]

Leake County #51

Part II

Application Forms

1. Number of Application Forms

The total number of forms which were acted on at the time of photographing on December 13, 1962, is as follows:

	Accepted	Rejected	Not Graded
White 142	133	4	5
Negro 27*	12	15	

* Of the accepted Negro applicants at least six were not told they had passed; one was told he had failed; three initially marked incomplete for lack of signature and were subsequently placed on the registration book.

2. Periods Which Forms Cover

a) January 2, 1960—September 5, 1961

This period covers from the date of the first form to the date (Sept. 5, 1961). Mr. Collier was notified by the FBI of an investigation into discrimination in registration and voting in Leake Courts.

(b) Period: September 5, 1961—December 13, 1962.

Period from date Collier notified of investigation to date of photographing.

[fol. 1655]

3. Analysis of Forms

a. Selection of Constitution sections

(1) January 2, 1960-September 5, 1961

Section	White	Negro	Number of Lines
129	3	0	4
133	2	0	9
240	36	1	1
241	0	10	17
243	1	0	10
244	1	0	21
249	1	0	6
251	2	0	5

During this period 91% of the Negroes, and no white received section 241. 78% of the whites and one Negro received section 240.

[fol. 1656]

(2) September 6, 1961-December 13, 1962

Section	White	Negro	Number of Lines
17	1	0	6
73	1	0	2
98	1	0	4
102	2	0	6
117	1	1	3
119	2	0	3
122	2	0	3
128	2	0	3
129	7	0	4
133	10	0	9
173	0	1	5
208	2	0	5
214	2	0	3
217	2	0	4
226	2	0	4
240	33	4	1
241	5	7	17
243	5	2	10
244	1	0	21
249	1	0	6

[fol. 1657]

Section	White	Negro	Number of Lines
250	3	0	2
251	5	0	6
252	4	0	6
260	1	0	9
267	1	0	4

b. Assistance to white Applicants

(1) Constitutional interpretation test

Section 240 of the Mississippi Constitution of Mississippi reads as follows:

All elections of the people shall be by ballot,

This section was assigned to 69 white applicants and five Negroes. Of these, 61 white applicants (88%) used the word "secret" in their interpretation.

None of the four Negroes used the word secret in their interpretation. White applicants wrote interpretation, identical or substantially identical to those of other white applicants. In many instances, persons with the same interpretation registered on the same day. In addition, different standard answers appear during different periods.

- (a) The following is a summary of the standard interpretations of white persons receiving section 240: (Notations are also made of similar statements of duties and obligations, but these are dealt with in greater detail in the next section)

[fol. 1658] The following eleven white accepted applicants wrote the following verbatim interpretation of Section 240:

"All elections shall be by secret ballot."

(Ten of the eleven had duties and obligations identical to those of several others in the group. See below)

Name	Date
Hubert Lavon Moore	1-29-60
Edward Lane Upton	3-19-60
Lady Ann Scruggs	6-25-60
Marilyn Deloris Massey	7-8-60
Ruth Calhoun Wagner	7-14-60
Webbye Sue Poale	7-16-60
Otis Withers	8-9-60
Thomas F. Crane	12-1-61
Raymond L. Pigg	12-16-61
James C. Fortune	12-16-61
Dequency Townsend, Jr.	1-25-62

The following four accepted white applicants have substantially identical interpretation of Section 240:

"All voting in all elections by the people shall be held by secret ballot."

(The last three have closely similar statements of duties and obligations). The last applied in succession.

Name	Date
Janet Grace Denson	4-5-60
James Roberts Allen	3-30-62
Mrs. Virginia Vines	4-5-62
Alice Lillian Mills	4-14-62

[fol. 1659] The following four accepted white applicants have substantially identical interpretations of Section 240, within one or two words of the eleven who wrote:

"All elections shall be by secret ballot."

(Their statements of duties and obligations are similar to those of at least one other member of the group).

Name	Date
Betty Jean Donald	10-14-60
Lailon Wright Dorsey	10-25-60
Wayne B. Sherman	6-17-61
Welton Freeny	9-30-61

The following two white accepted applicants wrote the following verbatim interpretation of Section 240:

"All election are by secret ballot."

(Their statements of duties and obligations are also identical.)

Name	Date
Betty Lynn Wooten	8-23-60
Leonard Colbert Crowe Jr.	9-10-60

The following two accepted white applicants have identical interpretations of Section 240:

"All elections shall be determined by secret ballot."

[fol. 1660] (Their statements of duties and obligations are also identical.)

Name	Date
Kenneth Alan Nester	4-19-60
Jimmie Dell Arthur	4-23-60

The following three accepted white applicants wrote the following identical interpretation of Section 240:

"All voting shall be done by secret ballot."

Their statements of duties and obligations are also verbatim. These persons filed successive application forms.

Name	Date
Peggy Pierce	2-2-62
Joseph F. Adams	2-12-62
Ruthie Waudine Moorehead	3-2-62

The following 12 white applicants wrote virtually identical interpretations of Section 240, all within one or two words of the following:

"All voting shall be done by secret ballot."

The first seven are verbatim. (Several also have substantially identical statements of duties and obligations). All except one (Eric Ouilahert) passed.

[fol. 1661] Name	Date
Carolyn M. Payne	7-6-61
Syble Linda Jones	7-25-61
Jimmie Ruth Freeny	1-24-61
Thomas W. Sterling Jr.	1-6-61
Martin R. Scrinner	1-27-62
Patrick Henry Kelly	5-4-62

Johnny R. Boyd	7-20-62
Mrs. Martin Scrinner	1-30-62
Mrs. Jan Jenkins Gardner	2-1-62
Lula Haley Wright	1-23-61
Bobbie E. Pigg	9-9-61
Edward Franklin Myers	3-24-62
Eric Ouilahert	10-5-62

The following four white accepted applicants wrote the following verbatim interpretation of Section 240:

"All voting is done by secret ballot.

(Their statements of duties and obligations are also verbatim). All registered within 11 days of each other, two on the same day."

Name	Date
Jo Ann Steen	1-17-61
Wilma Lavelle Horn	1-25-61
Carolyn Joy Nazary	1-25-61
Mrs. T. W. Starling Jr.	1-28-61

The following three accepted white applicants have the following verbatim interpretation of Section 240:

"The election held shall be by secret ballot of the people."

(Two who registered on the same day, also have identical statements of duties and obligations, and the statement of the third is similar.)

Name	Date
Joe Hugh Ratcliff	1-29-62
Allen Wright Dorsey	1-29-62
Paul Wright	1-31-62

[fol. 1662] The following three accepted white applicants wrote identical interpretation of Section 240:

"Elections are carried on by the people of said state and are voted on secretly by form of ballot."

(The statements of duties and obligations are also identical.) The first two registered on the same day and the third was the next applicant in Leake County and applied one week later.

Name	Date
Marcie Aline Matthews	5-31-62
Jerry Wade Matthews	5-31-62
Bobby Bryant Chamble	6-6-62

The following three white accepted applicants wrote almost verbatim interpretation of Section 240, as follows:

"All elections shall be determined by secret, and not oral balloting."

Their statements of duties and obligations are substantially similar.

Name	Date
Carl Baxter Cooper	3-19-60
Jerry Knox Richardson	4-16-60
Elvin Lynn Montgomery	6-16-60

The following two accepted white applicants wrote substantially identical interpretations of Section 240:

[fol. 1663] "All voting at such elections shall be by secret ballot by registered voters."

They registered within three weeks of one another. Their statements of duties and obligations are also almost identical.

Name	Date
Mary J. Richardson	12-29-61
Katherine A. Sudduth	1-18-62

Five of the following seven accepted white applicants wrote interpretations of Section 240 which, while not identical to that of any other applicant, are substantially similar to those of many others. The last two simply used the word "secret" in their explanations. All of their statements of duties and obligations are similar to those of other applicants.

Name	Date
Mary Lou Ware	10-21-60
Jewel Estell Phillips	10-14-60
Sue Gunter	9-21-60
Robert S. Donald	12-28-61
Larry Claude Wallace	5-5-62
Nelba June Fisher	10-28-60
Judy Beth Hall Tucker	11-2-60

(b) Other Sections

Accepted white applicants wrote standard interpretations of other Sections of the Constitution, as follows:

The following two white applicants have substantially identical interpretations of Section 133. Both were accepted.

[fol. 1664] Name	Date
Jackye N. Staton	1-28-61
Peggy Lynn Thaggard	6-22-62

The following two accepted white applicants who applied on the same day have identical interpretations of Section 102. (There statements of duties of citizenship were also identical.)

Name	Date
Jimmy Clyde Payne Sr.	7-13-62
Mary Frances Payne	7-13-62

The first three of the following four white accepted applicants have substantially identical interpretations of Section 129, and all four of them use the expression "untie the votes". (Three have identical statements of duties and obligations and the fourth is very similar)

Name	Date
Imogene Caldwell	1-8-62
Hilda R. Scott	1-29-62
Wayne E. Scott	1-29-62
Norman Everett Moore	10-26-62

Four of the following white accepted applicants, all of whom applied within four days of each other, wrote this verbatim statement of duties and obligations:

"The People shall have the right of election of their leaders."

[fol. 1665]	Name	Date
	Martin R. Scrinner	1-27-62
	Mrs. Martin Scrinner	1-30-62
	Paul Wright	1-31-62
	Jan Jenkins Gardner	2-1-62

The following two accepted white applicants, who applied on the same day, wrote the following statement of duties and obligations:

"The citizens of the nation shall have the right to elect the leaders by their own choice by ballot, and should feel it their duty to do so."

Name	Date
Joe Hugh Ratcliff	1-29-62
Allen Wright Dorsey	1-29-62

The following four accepted white applicants wrote this verbatim statement of the duties and obligations of citizenship:

"To be as good a citizen as possible, and to always uphold right in everything."

The first two applied on the same day and the third, who applied a week later, was the next applicant.

Name	Date
Marcie Aline Matthews	5-31-62
Jerry Wade Matthews	5-31-62
Bobby Bryant Chamble	6-6-62
Mary J. Moore	5-3-62

[fol. 1666] The following two white applicants wrote this verbatim statement of duties of citizenship:

"Serve on jury, pay taxes, obey laws, uphold Constitution."

They applied within a few days of one another, with no intervening applicants.

Name	Date
Kenneth Alan Nester	4-19-60
Jimmie Dell Arthur	4-23-62

The following eight white accepted applicants wrote the following verbatim statement of duties and obligations:

"Obey all laws."

Two applied on the same day and five of them were successive applicants (i.e. no other applicant applied between them)

Name	Date
Hubert Lavon Moore	1-29-60
Edward Lane Upton	3-19-60
Bobbie E. Pigg	9-9-61
Thomas E. Vowell	10-20-61
Thomas F. Crane	12-1-61
Raymond L. Pigg	12-16-61
James C. Fortune	12-16-61
Dequency Townsend, Jr.	1-25-62

The following four applicants wrote the following verbatim statements of duties and obligations:

"All laws should be obeyed."

The first three are successive applicants.

Name	Date
Wayne B. Sherman	6-17-61
Carolyn M. Payne	7-6-61
Syble Linda Jones	7-25-61
Johnny R. Boyd	7-20-62

[fol. 1667] The second of the following accepted white applicants completed her form the day after the first. Her statement of duties and obligations:

"As a citizen of under a constitutional form of Government is to vote at all elections and abide by the laws of the state and to get the right person in office."

is obviously taken from that of the earlier applicant.

Name	Date
Kathern Annette McDonald	11-8-62
Billie Jean H. Lacey	11-9-62

The following four accepted white applicants have statements of duties and obligations substantially identical to the following:

"I should vote in all the elections and uphold all the laws."

Name	Date
Janice Dorcelyn Moore	10-20-62
Norman Everett Moore	10-26-62
Janet Grace Denson	4-5-60
Nelba June Fisher	10-28-60

The following two successive accepted white applicants, wrote the following verbatim statement of duties and obligations:

"All citizens should obey all the Laws of the land. They should all register and vote."

[fol. 1668] Name	Date
Betty Lynn Wooten	8-23-60
Leonard Colbert Crowe Jr.	9-10-60

The following three white accepted applicants, two of whom registered on the same day, wrote the following identical statements:

"To take part in all elections held, and obey all laws."

One omitted the word held and wrote "the laws" instead of "all laws".

Name	Date
Imogene Caldwell	1-8-62
Hilda R. Scott	1-29-62
Wayne E. Scott	1-29-62

The following eleven white applicants, all accepted, wrote the statements identical or substantially similar to the following:

"To take part in all elections, and obey and uphold all laws."

Name	Date
Walter Langford	4-25-60
Mrs. Dorothy Langford	4-29-60
Marilyn Deloris Massey	7-8-60
Ruth Calhoun Wagner	7-14-60
Webbye Sue Poale	7-16-60
Otis Withers	8-9-60
Betty Jean Donald	10-14-60
Thomas W. Sterling Jr.	1-6-61
Lula Haley Wright	1-23-61
Robert S. Donald	12-28-61

Four of the following accepted five white applicants have the following complex verbatim statement of duties and obligations:

"Take part in all elections, vote"

[fol. 1669] "for the person we think best suited for the office for which he is running, obey and uphold all laws."

The fifth statement has a two or three word variation. Three of these applications were filed on the same day, the others, eight days earlier and five days later.

Name	Date
Wilma Lavelle Horn	1-25-61
Carolyn Joy Nazary	1-25-61
Mrs. T. W. Starling Jr.	1-28-61
Jo Ann Steen	1-17-61
Jackye N. Staton	1-28-61

The following two white accepted applicants, apparently husband and wife, wrote the following identical unpunctuated statement of duties of citizenship:

"Voting obeying all laws"

Name	Date
Jimmy Clyde Payne Sr.	7-13-62
Mary Frances Payne	7-13-62

The following eight white applicants, all accepted, wrote the following statement, either verbatim or within one or two words of it:

"Take part in all elections and obey the laws."

Name	Date
Peggy Pierce	2-2-62
[fol. 1670]	
Joseph F. Adams	2-12-62
Ruthie Waudine Moorehead	3-2-62
Ray Charles McPhail	4-21-62
Nina Patricia Scott Mansel	4-20-62
James Floyd Ware	6-7-62
Ramona Faye Chamblee	6-21-62
Peggy Lynn Thaggard	6-22-62

(2) Duties and obligations of citizenship

Identical or substantially identical statement of the duties and obligations of citizenship.

The following two accepted white applicants (husband and wife who applied the same day) wrote the following verbatim statement of duties and obligations.

"To honor and obey the laws of the Constitution. To exercise my privileges [sic] of voting for the offices of my state"

Name	Date
Audrey Fay Brewer	1-26-62
Guy Willis Brewer	1-26-62

The have verbatim interpretations of section 252, although Mrs. Brewer was section 208 to interpret.

c. Grading (No Forms)

The following table represents the number of entries in the Leake County Registration Book for the years 1960, 1961 and 1962 and the number of accepted Sworn Applications for Registration for the same period:

[fol. 1671] Years	Entries in Registration Book	Sworn Written Applications	% of entries with no forms
1960	242	31	87%
1961	185	29	84%
1962	300	86	71%

Registrar Collier stated that he has not retained his transfer certificate, so the exact number of persons who registered without completing application forms is not known. However, the statistics demonstrate that the number must be substantial.

[fol. 1672] Leake County #51

Part III

Listed below are the names and identification numbers of Negroes in Leake County who have been deprived of the right to register to vote and to vote by the means indicated. The number next to each name is that assigned to the applicant in the answers to Interrogatories 23 and 24 of the State of Mississippi. The specific registration and voting experiences, where known to plaintiff are set forth in Part I above, the applicant being identified by number. Where no number appears next to the name,

applicant has not been interviewed and the judgment that he has been unlawfully deprived of the right to register and to vote is based upon the application forms.

- (a) The following 14 Negro applicants have been deprived the right to register and vote by the existence of the constitutional interpretation test.

Number	Name	Date
	Buster Clayton	7-27-61*
	C. T. Clayton	1-8-62*
40002	Jim Dotson	5-17-62
40005	Alice Greer	5-8-62
40008	Davie Hudson	7-29-61*
40009	Joe C. Hudson	7-28-61*
40011	Winson Hudson	7-29-61*
40011	Winson Hudson	10-9-62
40012	Docia Jackson	5-8-62
	Bertha Kirkland	1-5-62*
	Essell Langdon	1-30-62*
	Heahe Latike	1-20-62
40014	Bebonor E. McDonald	7-28-61*
	Ernestine Landers	5-7-62

[fol. 1673] The persons designated with an asterisk were also rejected because of the existence of the perfect form requirement. Their forms were marked incomplete because they failed to sign the form in the right place.

- (b) The application forms of the four following additional Negro applicants were initially marked rejected and incomplete for failure to sign in the correct place. Each was assigned Section 241 (17 lines, 206 words) and each failed either to interpret the constitution or to write a statement of the duties of citizenship.

Number	Name	Date
	Edward Boone	2-8-60
	Geneva Clayton	12-27-60
	Louie Hutchins	1-7-61
40015	Jodie L. McDonald	1-31-61

At least one (Jodie McDonald) was told that he had failed. Subsequently, the names of three of these applicants were written into the registration books in irregular fashion, as follows:

1. The entry for McDonald is dated July 1962, whereas his application was in January 1961;

2. The entry for Boone is written in over an erasure; and
3. The entry for Miss Clayton is squeezed in between two lines.

[fol. 1674] It appears that none of these applicants was registered in normal fashion and that each was effectively deprived of the right to register to vote and to vote by the existence of the constitutional interpretation test and the perfect form requirement.

[fol. 1675] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action No. 3312

[Title omitted]

ANSWERS TO INTERROGATORIES OF STATE OF MISSISSIPPI; MRS. PAULINE EASLEY, CIRCUIT CLERK AND REGISTRAR OF CLAI-BORNE COUNTY; J. W. SMITH, CIRCUIT CLERK AND REGISTRAR OF COAHOMA COUNTY; T. E. WIGGINS, CIRCUIT CLERK AND REGISTRAR OF LOWNDES COUNTY.—Filed September 3, 1963

Appendix B

Part I

A

The following Negro citizens of Madison County were not permitted to register to vote. The events described below occurred at the Circuit Clerk's office in Madison County.

- 45015 Jan. 1960 Registered in about 1955 and voted
Refused in 1956 presidential election. Thought
Campbell—R he had to re-register in 1960. Campbell told him that he had no time for him.
- 45022 Spring, 1960 Had been registered in beat one in
Refused Madison County, since 1954. He
Unknown tried to re-register in beat four.
Went to registrar's office with Robert Beamon. While filling out the form he mentioned his beat one status. Clerk threw application in waste basket telling McCullough that he couldn't vote in a forthcoming election.

[fol. 1677]

- 57019 1955 He went to Registrar's office in Magnolia; filled out form; told by Registrar that explanation of what he copied from book not correct.
Rejected
Holmes—R
- 57034 1957 She went to Registrar's office in Magnolia; she was to read from book and interpret what she read; when she finished, she was told that her interpretation was not correct, and was rejected.
Rejected
Holmes—R

- 57041 Fall 1957
or Spring
1958
Rejected
Man He went to Magnolia to register; he was asked by a man in the office to read a section of Constitution and interpret it; he told the man he knew nothing about the law; the man then said he couldn't register.
- 57029 1958 or 1959
Rejected
Mrs. Holmes
—D. C. She went to Magnolia to Registrar's office with Alyne Quinn; spoke to Mrs. Holmes, who gave her a form to fill out; when she had completed the application, she was told she did not have enough in her answers and was rejected.
- 57037 8/9/61
Rejected
Holmes—R Went to the office of the Registrar with a group driven by George Head; only four were allowed to apply at a time; when she had completed the form, Holmes asked her what she meant by her answer to question 20; she told him; he shook his head and said she was rejected.
- 57033 8/10/61
Rejected
Holmes—R She went to Magnolia to register with Aron Tobias, Johnnie B. Noble and Willie B. Dillon; she filled out a form; Holmes told her she had not written enough on the interpretation, that he wanted an essay; she was rejected.
- [fol. 1678]
- 57038 8/10/61
Rejected
Holmes—R She went to Magnolia to Registrar's office with four other Negroes; filled out form; Mr. Holmes said her interpretation was bad and rejected her.
- 57028 8/10/61
Rejected
Holmes—R He went to Magnolia to register along with Bertha Ashley, Marie Nobles, Dorothy Nobles and Mary Nell Nobles; filled out form; told that he had not written enough for interpretation.

57000 8/10/61 She went to Magnolia to register with George Head. Filled out a form. Told she was rejected.
Rejected
Holmes—R

57006 8/15/61 She went to Magnolia to register. Filled out form. Registrar said he didn't like her answers to interpretation and duties questions. She was rejected.
Rejected
Holmes—R

57006 8/18/61 She went to Registrar's office in Magnolia to register. Filled out a form. Registrar after short time asked if she had finished. She answered no. He took away book she was using for interpretation. Registrar told her she didn't answer fully enough, and rejected her.
Rejected
Holmes—R

57026 8/29/61 Went to Magnolia to register; filled out form; told that interpretation was not exactly right and was rejected.
Rejected
Holmes—R

57035 8/29/61 She went to Registrar's office in Magnolia with Margaret Thompson and Jessie Lee Casten to register; she filled out a form; Holmes told her she had not written enough on the interpretation and duties questions; she was rejected.
Rejected
Holmes—R

[fol 1679]

57035 8/30/61 She went to Registrar's office in Magnolia to register; she filled out a form; Holmes said her interpretation was too far-fetched, and rejected her.
Rejected
Holmes—R

57028 8/31/61 He went again to Magnolia to register. Went with Marion Nobles; filled out form; was told his interpretation was wrong, and was rejected.
Rejected
Holmes—R

57015 8/7/62
Rejected
Holmes—R

He went to Magnolia to Registrar's office with Theon Jones, Izeal Bennett and C. J. Curry. He filled out form. The registrar said he didn't have enough in interpretation of Constitution, and rejected him.

[fol. 1680] Pike County #54

Part II

Application Forms

1 & 2. Number of Forms and Periods Covered

The first form is dated April 20, 1960.

The registrar, Mr. Holmes, was advised of an investigation in Pike County at the request of the Civil Rights Division of the Department of Justice on May 26, 1961. The date of the form of the first white person rejected for registration is June 2, 1961. The next white person whose form was rejected is October 3, 1961.

A Negro registration drive was started in Pike County in August of 1961. On May 26, 1961, Mr. Holmes was notified by the FBI of an investigation by the Civil Rights Division of the Department of Justice. Before this period Wendel Holmes had not rejected any white applicant. The first rejected white applicant is in June 1961. During and after this period he rejected 53 Negroes. This was more than one-half of those applying. During the entire period for which we have forms he failed 61 Negroes out of 117 applying and only 15 whites out of 523 applying. The totals are:

White

Accepted	508
Rejected	15

Negro

Accepted	61
Rejected	56

.[fol. 1681]

3. Analysis of Forms

a. Selection of Sections of the Constitution

(1) The following table shows the section distribution by race from the date of the first form, April 20, 1960, to the date of the second photographing, December 12, 1962.

Section	Number of Words	Whites	Negroes
2	59	0	2
6	54	0	1
17	76	0	1
20	30	2	0
22	31	7	0
25	32	1	0
29	27	1	0
41	82	21	1
42	74	4	0
44	98	27	21
47	45	1	0
53	80	3	4
54	38	1	0
55	110	0	2
59	136	0	1
65	51	4	0
70	35	1	0
73	22	1	0
74	26	3	0
75	19	3	0
76	21	3	0
77	33	10	0
78	36	13	0
79	82	8	12
81	80	2	5
87	87	4	10
88	55	4	2
95	100	1	1
96	54	1	1
100	93	0	3
103	60	0	2
105	53	88	7
106	56	40	2
110	115	2	2
111	80	2	5
112	180	0	1
150	52	103	12

[fol. 1682]

Section	Number of Words	White	Negroes
153	40	38	2
154	55	58	4
160	96	9	2
161	90	0	2
165	135	0	1
173	58	7	2
176	52	4	0
177	99	2	0
180	100	0	1
187	55	6	1
188	51	1	0
190	77	0	1
202	82	6	1
203	58	12	0
204	85	6	0
206	54	1	0
232	50	1	0

For the total period the average length of sections given to Negroes was 79 words; for white persons it was 57 words.

(2) During the period in which there was a registration drive by Negroes in Pike County (August 8, 1961, the date of the first Negro form—October 27, 1961, the date of the last Negro form) Mr. Holmes began to use many sections of the Mississippi Constitution which he had never used before. Seventeen new sections were used during this period. The following tables show (a) the incidence of these new sections by race, (b) the incidence by race of sections which Mr. Holmes had previously used.

[fol. 1683] (a) Sections which were *NOT* used prior to the Negro registration drive. Incidence by race and who by race received it first.

Period: During Drive—August 8, 1961–October 27, 1961.

Section	Number of Words	White	Negro	Race of person first receiving Section
2	59	0	2	N
6	54	0	1	
17	76	0	1	N
22	31	1	0	W
53	80	0	1	N
55	110	0	2	N
59	136	0	1	N
81	80	1	4	N
88	55	2	2	N
95	100	0	1	N
96	54	0	1	N
100	93	0	3	N
112	180	0	1	N
160	96	0	2	N
161	90	0	1	N
165	135	0	1	N
180	100	0	1	N
	90	4	25	15 N—1 W
	(Average)			

(b) Sections which were used prior to registration drive which were used during drive. Incidence by race and race of applicant first receiving section.

Section	Number of Words	White	Negro	Race of person first receiving section
44	98	3	8	W
65	51	2	0	W
79	82	4	4	N
87	87	2	5	N
105	53	15	2	W
106	56	5	0	W
110	115	0	1	N
111	80	1	3	W
154	55	1	0	W
	73	33	23	3 N—6 W
	(Average)			

[fol. 1684] From these two tables the average length of sections given to Negroes from August 8, 1961, to October 27, 1961, was 88 words; for white applicants it was 63 words.

b & c and Part III

Analysis of the records has not been completed and these portions will be furnished upon completion.

[fol. 1685] Rankin County #55

Part I

A

The following incident which occurred at the Circuit Clerk's office at Rankin County while two Negroes were filling out application forms deterred non-registered Negro citizens from attempting to register to vote.

On February 1, 1963, Wallace Davis and Murray C. Carr, Negroes, went to the Circuit Clerk's office to register to vote. Outside the courthouse they met Mitchell Grim, a Negro who was already registered. The three Negroes went into the Circuit Clerk's office. Davis and Carr began filling out forms while Grim waited inside the office by the door to the office. While Davis and Carr were filling out forms, the Sheriff of Rankin County, Jonathan R. Edwards, Jr., came into the office and struck Grim several times in the face and on his body with a blackjack. While the Sheriff was striking Grim, the Sheriff's deputy, J. B. Col- lum, entered the Registrar's office and started striking the two Negroes who were registering.

61000

61001

61003

And see testimony in case of *United States v. Edwards* and Findings of Fact of District Court filed on July 23, 1962.

Part I

A

The following Negro Citizens were not permitted to apply to register to vote in Scott County. The events described below occurred at the Circuit Clerk's office in Scott County.

- | | | |
|-------|---|--|
| 62016 | About 1955
Not permitted
to apply
Williams-R | Went to office of Registrar alone; Mr. Williams told him "We ain't ready for niggers yet". |
| 62013 | Early 1956
Not permitted
to apply
Rigby-R | Went to office of the Registrar with Mrs. Payton; Rigby said he was too busy and did not allow them to apply. |
| 62013 | About 1956
Not permitted
to apply
Rigby-R | Went with husband to Registrar's office; Rigby again said he was too busy, told them to come back; she came back alone and Rigby again told her to come back, did not permit her to apply. |
| 62014 | 1956-57
Not permitted
to apply
Rigby-R | He went with wife. Rigby said he had something to do and that they should come back another time, and declined to permit them to apply. |

[fol. 1687]

Simpson Co. #57

Part I

A

The following Negro citizens of Simpson County were not permitted to pay their poll taxes. The events described below occurred at the Sheriff's office in Simpson County.

- 64009 1955 January Tried to pay poll tax when he paid
Not allowed his land tax and was told by Sheriff
to pay Mullen that he was not collecting poll taxes
(Sheriff) at that time.
- 64099 1956 January Tried to pay poll tax when he paid
Not allowed his land tax and was told by Sheriff
to pay Sheriff that he was not collecting poll taxes
at that time.
- 64099 1957 January Tried to pay poll tax when he paid
Not allowed his land tax and was told by Sheriff
to pay Sheriff that he was not collecting poll taxes
at that time.
- 64099 1958 January Tried to pay poll tax when he paid
Not allowed his land tax and was told by Sheriff
to pay Sheriff that he was not collecting poll taxes
at that time.
- 64099 1959 January Tried to pay poll tax when he paid
Not allowed his land tax and was told by Sheriff
to pay Sheriff that he was not collecting poll taxes
at that time.
- 64099 1960 January Tried to pay poll tax when he paid
Not allowed his land tax and was told by Sheriff
to pay Sheriff that he was not collecting poll taxes
at that time.

[fol. 1688]

- 64099 1961 January Tried to pay poll tax when he paid
Not allowed his land tax and was told by Sheriff's
to pay Deputy deputy that he was not collecting poll
Sheriff taxes at that time.

[fol. 1689]

Smith County #58

Part I

A

The following Negro citizen was not permitted to apply to register to vote. This event occurred at the Circuit Clerk's office in Smith County.

65000	1960	Went to register and was told by
	Not allowed	registrar that he could not register
	to apply R	now.

[fol. 1690]

Clarke #59

Part I

A

The following Negro citizens of Clarke County were not permitted to apply to register to vote. The events described below occurred at the Circuit Clerk's office in Clarke County unless otherwise noted.

12007	Spring, 1955	Applied with Andrew Kendrick at
	Refused	Stonewall. He told Ramsey he
	Ramsey-R	wanted to register and was asked if
		he knew about the Constitution of
		the U.S., the 14th and 15th Amend-
		ments, and the Constitution of Mis-
		sissippi. The applicant said he knew
		about them and Ramsey told him to
		go back and study some more and
		that they will have to register you all
		to vote because we will have to have
		some of you on juries. They left.

- 12015 1955
Refused
Ramsey-R
Went with Reverend Goff to register in Stonewall, but Ramsey refused to permit them to register, telling them to wait; as they were walking away, Ramsey overtook them and said, "Don't you boys go off and say that I won't register you, but come to Quitman some time and I'll see what I can do."
- 12007 1955
Refused
Ramsey-R
Applied with G. W. Cotton and asked to register. Ramsey said books were tied up and to come back later. They left.
- 12009 Since 1955
Refused
Ramsey-R
Went to the office of the Circuit Clerk with Maceo Hardaway and G. D. Cotton in order to register, but they were told by the clerk that the books were not open to Negro applicants.
- 12010 1957
Refused
Ramsey-R
Went to the office of the Circuit Clerk and inquired if he could register; the registrar told him they were not registering Negroes in view of the trouble in Alabama.
- 12011 Jan. 28, 1958
Refused
Ramsey-R
Applied with George Haynes and Billy McLain, Negroes. Were told by Ramsey that when the "stuff" in Washington, Arkansas, and Alabama is settled, I'll let you come back and apply.
- [fol. 1691]
- 12012 Jan. 28, 1958
Refused
Ramsey-R
Applied with Willie McLain and and Maceo Hardaway at the clerk's office and Mr. Ramsey told him he would have to wait until we see what was going to happen in Washington.

- 12016 Jan. 28, 1958
Refused
Ramsey-R Went to the office of the Circuit Clerk with Maceo Hardaway and George Haynes; they asked the clerk if they could register but he refused to permit them to do so, saying they did not want the same trouble they had in Little Rock and he was going to wait to see what Washington was going to do; while they were in the sheriff's office paying their poll tax, the clerk came in, spoke to a deputy, then left, after which the deputy called them into the office; deputy asked if they were not getting along all right, then said, "We aren't going to have you niggers in white folks business"; they finished paying their poll tax and left.
- 12015 About 1958
Refused
Ramsey-R Went with George Cotton to the office of the Circuit Clerk, but Ramsey would not register them, saying it was not time yet, they should wait and he would let them know.
- 12002 About 1958
Refused
Ramsey-R Applied with Maceo Hardaway and his brother, all Negroes. Registrar said it was not any use in coming back any more "because we're not going to register you colored fellows because the supervisors and the sheriff and the town got together and decided not to register Negroes."
- 12011 About 1958
Refused
Ramsey-R Applied with J. J. Hardaway, McRee, and George Cotton. Ramsey said he, the supervisors, and the sheriff decided that they would not let negroes vote until they were made to do so. They left.

12017 1958
Refused
Ramsey-R

Applied with George Cotton, Maceo Hardaway, and Jake Hardaway and was told by registrar that they decided not to let them register until they have to do it.

[fol. 1692]

12011 Unknown
Refused
Ramsey-R

Applied with Thomas Jones, J. J. Hardaway and Maceo Hardaway, all Negroes. Mr. Ramsey told them to wait for the stuff going on in Washington, D.C.

12018 1959
Refused
Ramsey-R

Went to the office of the Circuit Clerk to register; Ramsey said there was a case pending in the western part of the state and he wanted to wait until that was cleared up; refused to register him.

12018 1961
Refused
Delay
Accepted
Ramsey-R

Went to the office of the Circuit Clerk to register, but Mr. Ramsey said he had no forms at that time; returned twice, but Ramsey was out of the office and a lady there said he would have to see Ramsey in order to register; returned again and found Mr. Ramsey in the office; Ramsey gave him a form to fill out and section 112 of the Constitution to interpret; when he had completed the form, Ramsey took it and said he would have to look it over and Owens should come back; when he returned, Owens was permitted to register.

[fol. 1693]

Clarke County #59

Part II

Application Forms

1. Number of Application Forms

A re-registration of all voters was begun in Clarke County in January, 1953. On April 10, 1961, a special agent of the FBI notified Mr. Ramsey that an investigation into racial discrimination in registration was being conducted in Clarke County. Negroes were not permitted to fill out application forms until June 1, 1961. The first form of a white person is dated May 11, 1960. From May 11, 1960, to December 26, 1962, the date of the trial in *U.S. v. Ramsey*, there were 233 forms filed by white persons and 3 forms filed by Negroes.

2. Period Which Forms Cover

May 11, 1960-December 26, 1962. Many white persons were registered in Clarke County without having to fill out forms or even go to the registrar's office. A finding of fact by the District Court in *U.S. v. Ramsey* on this point is as follows:

"The illegal registration of unqualified citizens, and the illegal registration of citizens who were probably entitled to register but did not take the trouble to go to the registrar's office to register, constitute the bulk of abuses of state law in this county by the registrar. There are approximately 1500 such illegal registrations on the books in this county. In 1,289 instances a citizen unlawfully registered by proxy."

3. Analysis of Forms

(a) Selection Discrimination

Only 3 Negroes had filled out forms by the time of the trial on December 26, 1962. Two of the three were required to interpret Section 112.

[fol. 1694] Section 112.

Taxation shall be uniform and equal throughout the state. Property shall be taxed in proportion to its value. The legislature may, however, impose a tax per capita upon such domestic animals as from their nature and habits are destructive of other property. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value. But the legislature may provide for a special mode of valuation and assessment for railroads, and railroad and other corporate property, or for particular species of property belonging to persons, corporations or associations not situated wholly in one county. But all such property shall be assessed at its true value, and no county shall be denied the right to levy county and special taxes upon such assessment as in other cases of property situated and assessed in the county.

None of the first 143 white persons who filled out forms from May 11, 1960, to April 16, 1962, received Section 112 to interpret. From April 16, 1962, to July 11, 1962 (when the Government photographed the voting records), ten of 40 white persons and the one Negro applicant received Section 112. From July 11, 1962, to the trial on December 26, 1962, 7 of the 51 white applicants received Section 112.

An analysis of the forms from May 11, 1960 until June 1, 1961, when the first Negro was permitted to fill out a form, shows the following:

1038

Date	Name	Registration	Comments
Date	Name	Race	Section # Lines
May 11, 1960	Robinson	White	28 2
August 30, 1960	Hill	White	13 6
Oct. 12, 1960	Johnston	White	14 2
Jan. 14, 1961	Griffin	White	28 2
Jan. 15, 1961	Lee	White	28 2
[fol. 1695]			
Date	Name	Race	Section # Lines
Jan. 31, 1961	Broadhead	White	28 2
May 21, 1961	Thornhill	White	5 3
May 30, 1961	McBride	White	5 3
June 1, 1961	Owens	Negro	112 12

(b) Assistance to White Persons

White Witnesses Who Testified in U.S. v. Ramsey

1958			
1/25	Pleamon Griffin	Ramsey registered him. Just signed book.	4th grade "not too good" at reading— Can't read Q. 19
3/28	Doyle Dykes	Just signed book	6th grade Can't read Q. 19
11/5	Mrs. M. W. Hayes	Just signed book	4th grade Can't read Q. 19
11/21	Mrs. Anita Carr	Ramsey registered her. Just signed book.	6th grade Can't read
11/21	Mr. Mansel Robinson	Ramsey registered them. Mrs. Robinson just signed book for husband and herself.	Mr. Robinson couldn't read or write
11/21	Mrs. Mansel Robinson		
1959			
1/17	James Roberts	Ramsey registered him. Just signed book.	6th grade

* Mrs. Anita Carr's mother and father. See her testimony.

[fol. 1696]

Date	Name	Registration	Comments
1959			
1/17	Mrs. James Roberts ²	Ramsey told her husband he could sign for her	Did not go to Registrar's office
3/10	Lavon Scarbrough	Harvey Dearman registered for him—he did not go to Registrar's office	"Can't read except a little bit"
4/27	Alton Lightee	Father registered for him	Did not go to Registrar's office
1960			
5/21	David Lafferty	Ramsey registered him. Just signed book	9th grade Can't read Q. 19
6/5	A. L. Johnson	Lady registered him. Just signed book	3rd grade Can't read
7/8	Jesse Culpepper	Ramsey registered him. Just signed book	9th grade
7/8	Mrs. Jesse Culpepper ³	Husband registered for her	Did not go to Registrar's office
8/2	James Robinson	Just signed book	9th grade
1961			
1/13	Mrs. Frances Owen	Ramsey registered her. Just signed book	
1/14	Jerry Griffin	Had to fill out application form—Signed book same day	12th grade Can't read section he interpreted
1/28	Mrs. Glenn Beech	Just signed book	10th grade
1/31	Mrs. Doris Wigington	Ramsey registered her. Just signed book	10th grade

² See testimony of James Roberts.³ See testimony of Jesse Culpepper.

[fol. 1697]

Date 1961	Name	Registration	Comments
2/4	Raymond McInnis	Ramsay registered him. Just signed book.	8th grade
2/4	Mrs. Raymond McInnis *	Ramsay registered them. They just signed book.	
2/4	Marshal Abston *		
2/4	Mrs. Marahal Abston *	M.O. Lucas registered for her. She did not go to Registrar's office	½ of 3rd grade. Can't read.
2/4	Mrs. Grace Abston		
2/4	Norman Dykes	Someone registered him. He did not go to the Registrar's office.	No education Can't read or write
1962			
6/9	Willard Roberts	Ramsay registered him. Had to fill out application form. Same interpretation as Harold Turner (white) on same day* and Sam Owens (Negro) on June 1, 1961	8th grade

* See testimony of Raymond McInnis.

(c) Assistance to White Persons Who Filled Out Forms

- (1) Two White persons received Section 112 on June 9, 1962. Their interpretations are identical to the interpretation of Samuel Owens (a Negro), who applied on June 1, 1961.

Samuel Owens—June 1, 1961—Negro—Retired school principal

In fairness to all citizens of the state, taxes leveed shall be the same. However, all property shall be assessed and tax collected, according to the value thereof. The legislature may impose a tax to be paid by the owner of any animal that may be destructive to other property.

[fol. 1698] General state laws provide for the uniform rules by which property may be assessed according to its true value. The legislature, by law, may provide in a special manner for valuation and assessment of property belonging to railroads and other persons or

corporations etc not situated wholly in one county. Yet all such property shall be assessed at its true value. Each county has the right to levy and collect taxes as in cases where property is situated in the county.

Willard Roberts—June 9, 1962—White—Lift Operator
In fairness to all citizens of the State taxes leveed shall be the same. However, all property shall be assessed and tax collected according to the value thereof. The Lesagter may impose a tax to be payed accountant of any animal that may be destructive to other property.

Earnest Harold Turner—June 9, 1962—White—Saw Mill Worker

In fairness to all citizens of the state, taxes leveed shall be the same. However, all property shall be assessed and tax collected according to the value thereof. The legislature may impose a tax to be paid by the owner of any animal that may be destructive to other property.

Willard Roberts gave almost the same duties and obligations as those given by Samuel Owens.

Samuel Owens—Negro—June 1, 1961

All citizens are obligated to obey the laws of the land, protect and defend their state and country from its enemies. Under any and all circumstances respect and obey the Constitution of the government. It is the sacred duty of citizens of a Constitutional government to respect authority and conform to its laws.

Willard Roberts—White—June 9, 1962

All citizens or obligate to obey the laws of the land, protect and defend there statutes and country forever. The taxes we are supposed to pay because it help us to be strong and keep our defenses up and fight our enemy.

[fol. 1699] (2) Two white persons who received Section 112 gave identical interpretations.

James F. Young—April 16, 1962—White—Painter

All taxes are the same throughout the state and property will be Taxed according to its worth. There will be taxes on any part of a bussisseness located inside the county. They can put a Tax on livestock since their habits are destructive to other property.

Nancy Sue Turner—June 11, 1962—White—Housewife

All taxes are the same throughout the state and property will be taxed according to its worth. There will be taxes on any part of a bussisseness located inside the county. They can put a tax on livestock since their habits are destructive to other property. The legislature can provide a special mode of valuation and assessment for railroads, and other corporate property belonging to persons, corporations or associations situated wholly in one county.

(3) Two white persons who received Section 112 gave identical interpretations.

John R. Lightsey—May 19, 1962—White—College student

I think a reasonable interpretation of the 112th section of the constitution of Mississippi is that property shall be taxed as to its true value. The legislature will evaluate and assess for railroads and other corporate property not located in one county. Also no county will be denied the right levy county and special taxes upon such property or belonging.

Ella L. Fontaine—June 28, 1962—White—Housewife

I think every thing should be taxed according to their value. I a reasonald interpparation of the 112th section of the constitution of Mississippi is that property shall be taxed as to its true value. The legislature will evaluate assess for railroads and other corporate property not located in one county. Also no county will be divide the right by county and special taxes upon such property or belonging.

[fol. 1700] Their duties and obligations are also identical.

John R. Lightsey

To follow the obligations of citizenship under a constitutional form of government I think a person should understand the constitution and its law and abide by them.

Ella L. Fontaine

To follow the obligation of Citizens under a constitution form of government I think a person should understand the constitution and its law and abide by them.

- (4) Two white persons who received Section 14 gave substantially identical interpretations.

John E. Stutts—December 14, 1961—White—Teacher

My interpretation of the 14th section of the constitution of Mississippi is that we have the right of life, liberty, and property and that we cannot be deprived of this except by due process of law. This places upon us as citizens and voters of this state the responsibility of maintaining a strong and sound government that will secure us these rights.

Ella Mae Manasco—April 30, 1962—White—Housewife

My interpretation of the 14th section of the constitution of Miss. is that we have right to vote. The liberty the property and that we cannot be deprived of law. This places upon us to citizens of our state.

Their duties and obligations are also substantially verbatim.

Part I

A

The following Negro citizens of Jasper County were not permitted to register to vote at the places noted in Jasper County.

- | | |
|---|--|
| <p>31008 1956
Refused
McDavid</p> | <p>Went to the Paulding registration office alone. He had paid his poll tax for the two previous years. Mr. Myrick McDavid in the sheriff's office told him to go to Bay Springs. He went to Bay Springs immediately but there was told that the Circuit Clerk was out. Two weeks later he returned to Bay Springs where a man told him that the circuit clerk was sick.</p> |
| <p>31008 Aug or Sept
1957
Refused
Registrar</p> | <p>Went to the Bay Springs registration office. He was told that the books closed on July 1; and therefore he could not register.</p> |
| <p>31001 About 1958
Refused</p> | <p>Mr. Jones went to the Bay Springs registration office in April 1958. He was waited on by a man. This man told Jones that he was going to dinner and therefore Jones could not register.</p> |

[fol. 1702]

Jasper Co. #60

Part I

B

The following Negro citizens of Jasper County were delayed in their attempts to register to vote at the places noted in Jasper County.

- | | | |
|-------|--|--|
| 31008 | About 1958
Delayed
Accepted | Went to registration office with his brother Odie Milsap. He was given a form and Sec. 30 to interpret. When he finished he asked if he qualified and was told that a board had to pass on it. Three months later he returned and was told that he had qualified. |
| 31004 | Oct 4,
1961
Clerk | Went to the Bay Springs County Seat on Oct 4, 1961. He was given a form to fill out and Sec. 244 to interpret. When he had finished the clerk told him that he had done "pretty good," but when asked if it would do any good, the clerk replied "you come back." He evidently took this as a rejection. |
| 31006 | Mar 1963
Delay
Rejected
Grissom-R | Went to the Bay Springs registration office accompanied by Odie Milsap, Lindsay McCullum, L. B. McGill, William Taylor and Roy Taylor. Grissom took them one at a time and had them fill out forms. He was told to come back to find out the results. When he returned he was told that he had failed. |

Part I

A

The following Negro citizens of Lauderdale County were required to make more than one trip to the registrar's office to fill out forms and learn if they passed or failed, prior to the publication law passed in 1962. The events described below occurred at the Circuit Clerk's office in Lauderdale County.

- | | | |
|-------|---|---|
| 38042 | 1958
Delay
Coleman | Accompanied to registrar's office by Albert Jones, who merely escorted him. Had to copy and interpret a section of the constitution. Coleman told him he would contact him but never did. |
| 38052 | 1958 or
1959
Delay
Rejected
Woman | Went alone to register and filled out a form. He was then told the clerk would get in touch with him. The clerk never did. |
| 38053 | Feb., 1960
Delay
Rejected
Woman | Went to office with Ida M. Henderson and Ina Pearl Snowden. Received section of Mississippi constitution to interpret. She called back in a week or two for results and was told that she had failed. |

38025 1960
Delay
Rejected
Woman

Went to register with Ina Pearl Snowden and Ruthie Williams. Lady clerk took them to a back room. Three white people appeared to be applying in main office. Received section about railroad rolling stock. Companions received different section. Lady told her to check back in a few days, since there was a pile of applications to grade. The first time she checked back, lady could not find her application and told her to check back again. She checked back a total of three times before she found she had failed. Lady refused to tell her what she had done wrong and told her she could fill out another form the next day—although "We don't usually let you do this but perhaps Mr. Coleman will."

[fol. 1704]

38005 September
1960
Delay
Rejected
Coleman-R

Mrs. Chisolm filled out a form. She returned later and was told she had failed. She asked what was wrong with her form and Coleman said he could not tell her.

38011 Oct. or Nov.
1960
Delay
Rejected
Woman

Went with 3 Negroes (Mrs. Ray, Mrs. Dace, and Mrs. Whitlock.) Woman gave her a form and a book containing the constitution. Was not told if she had passed or failed. Mrs. Whitlock checked and learned Mrs. Curry had failed.

38020 Dec. 1960
Delay
Rejected
Coleman-R

She went to register with a group of Negroes. She filled out a form and Coleman told her she must call or check back to see if she passed.

38025 1960
Delay
Accepted
Coleman-R

Went alone. Asked Mr. Coleman if she could apply again after failing once and he said she could. 2 or 4 white people were applying in the main office, but she had to sit in the little room at the back. Received a section about the legislature's power to increase or decrease levies. Coleman told her she could get results in 3 or 4 days. She checked back twice without learning results, but then the lady called her and told her she had passed.

38044 1960
Delay
Rejected
Woman

Went to office with Ida M. Henderson and Ruthie Williams. She filled out a form. Lady asked her to return in three days. When she did so, lady told her she had failed as her name was not on the registration book, and that she could not see her form.

38004 1-20-61
Told
Rejected
Form
Accepted
Woman

Went alone. Received Section 97 to interpret. Lady told him to come back in a few days since Coleman was in court. Returned with Ruben Hughes, Negro. Lady told him he had failed. His form is marked "accepted".

[fol. 1705]

38018 1-26-61
Delay
Rejected
Coleman-R

She went to register with Leone Giggs. She filled out a form and was told to call later to see if she passed. When she called she was told she had failed.

38040 1-30-61
Delay
Rejected
Woman

Went to register with Ulpiana Sims. She filled out a form. Lady clerk said they would be advised of results. They never were. Mrs. Simmons never went back. Her form was among rejected applications.

- 38001 1-30-61
Delay
Rejected
Coleman-R
She filled out a form and was told she would hear results in 3 or 4 days. She never heard. Form in rejected pile.
- 38037 2-1-61
Delay
Rejected
Woman
Went to registrar's office with Nelia Davis and Dorothy Clayton. Placed in separate room. Given section 50 to interpret and paraphrased section as an answer. Lady asked her to return in a few days to get results.
- 38055 3-7-61
Told
Rejected
Form
Accepted
Coleman-R
Went to office with his wife Ruthie Lee, and Mrs. Exie Thomas. Received Section 67. Would say nothing about it except that he failed. Name later placed on Registration Book without his knowledge.
- 38048 3-7-61
Told
Rejected
Form
Accepted
Woman
Accompanied to office by Mr. and Mrs. Lurrie Willis. Given Section 83. Returned to office one month later and told she had failed. Application later turned up in accepted file, Mrs. Thoman was not informed she was accepted.
- 38020 5-18-61
Told
Rejected
Form
Accepted
Coleman-R
Went alone. Took test and received Section 253. Told to return later. Advised that she had failed, yet in February, 1962, her application was placed in the accepted file without her knowledge, and her name was written in the registration book.
- [fol. 1706]
- 38006 7-13-61
Delay
Rejected
Female
Deputy
Went with Mrs. Lili Belle Abernathy. Filled out a form and learned a few days later that she had failed.

1080

38006 7-17-61
Told
Rejected
Form
Accepted
Woman

Went alone. Received Section 97. Lady told her she failed. Her form was among accepted applications.

38007 7-27-61
Delay
Accepted
Coleman-R

Attempted to register on July 27, 1961 with Nelia Davis and Mrs. Sarah Pollard. Mrs. Clayton filled out a form and had to return to the registrar's office at least three times before she found out she passed.

38046 1-31-62
Rejected
Woman

Went to register with Mrs. Daphne Hudson, Janice McKinney, and Ed-die Nelson. She filled out a form but was not told result. About a month later, received a message from female clerk through Daphne Hudson that she had failed and that Mrs. Sykes should come back and take test over. Her husband went to courthouse and Coleman said she was rejected.

38023 1-31-62
Delay
Rejected
Coleman-R

Went in to register alone. Told lady he had been registered in 1946 and asked if he had to again. She said yes. Received Section 265 to interpret. Coleman told him he would let him know the result of the test. He never heard from him. Form among rejected applications.

[fol. 1707]

B

The following Negro citizens of Lauderdale County were not permitted to register to vote because their interpretations of duties of citizenship did not satisfy registrar.

- 38058 3-22-60
Rejected
Woman
Husband took her down. She was sent to back room. Received Section 122 to interpret. After she handed form in, lady told her to come back. Her husband checked back and was told her interpretation was too similar to the text of the section.
- 38018 2-16-61
Rejected
Coleman-R
She filled out a form and interpreted Section 83. Lady told her to check back in a few days. Lady told her over phone when she checked back that there was a note attached to her application that Coleman wanted to see her. She went to the office and he told her that the statement of duties and obligations of citizenship was "not enough."
- 38058 3-21-61
Rejected
Woman
She went to register with her husband. She received Section 196 to interpret, the lady selecting it noticed she had some of the duties of citizenship written out on a sheet of paper. Lady confiscated it and rejected her. Husband went back to check about this and lady said this was just like receiving assistance.

[fel. 1708]

Part II

Application Forms

I. Number of Application Forms

There are 7 forms in 1960 dated from 1/9/60. The first white accepted form other than absentee is dated 3/20/61. The period in which white forms were consistently retained began in August 1961. The total number of forms is as follows:

White	604
Accepted	545
Rejected	3
Pending	56
Negro	78
Accepted	40*
Rejected	34
Pending	4
Unidentified by race	149
Accepted	127
Rejected	12
Pending	10

* Fourteen of the accepted Negroes who applied in 1960 and 1961 were not placed on the registration book until February 1962, shortly after the United States requested by letter to see Mr. Coleman's records.

2. Periods Which Forms Cover

- a. Total period: January 9, 1960—date of first form—
to December 17, 1962—date of last form.
- b. January 9, 1960-January 18, 1961.
The Department of Justice wrote Mr. Coleman to inspect his records on January 18, 1961.
- c. January 9, 1960-March 20, 1961.
This is the period during which Mr. Coleman retained only the rejected application forms. There is one form during this period which is accepted but appears to be an absentee form.

[fol 1709] Other than this form the totals for this period include 31 Negroes and 4 unknowns as to race and one white. Nine of these Negroes were subsequently given accepted registration numbers and placed on the registration book in about February 1962. This occurred shortly after the registrar, Mr. Coleman, agreed to permit the Department of Justice to photograph his records (January 29, 1962). The agreement to photograph was withdrawn the first week in February 1962.

3. Analysis of Forms

a. Selection of Sections, of the Constitution

1. Period: January 9, 1960-December 17, 1962 *

Section	White	Negro	Unknown
8	14	1	3
12	1	0	0
20	11	1	3
30	259	8	63
33	0	0	1
35	15	0	5
37	2	0	0
39	0	0	1
50	0	2	1
62	0	1	0
63	0	1	0
66	0	0	1
67	23	4	6
73	1	0	0
83	22	4	4
91	0	1	0
92	15	1	1
97	1	2	0

* The totals are slightly less than the total number of forms because on some forms no section number is indicated and the section was not identified.

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Section	White	Negro	Unknown
102	1	0	0
104	1	0	0
106	3	1	1
110	1	0	0
116	1	0	0
117	2	0	0
118	24	6	5
119	1	1	1
122	0	2	1
123	113	8	23
126	1	0	0
130	1	0	0
132	0	1	0
138	0	0	1
139	0	1	0
142	0	1	0
144	1	2	0
148	1	0	1
162	2	1	1
163	0	1	0
164	28	3	11
167	31	2	5
169	0	1	0
185	0	1	0
190	0	1	0
196	0	3	0
198	0	1	0
215	0	1	0
220	0	2	0
253	0	1	0
263	1	1	0
264	0	1	0
265	29	10	10

2. Period: January 9, 1961-January 18, 1962 (the date Registrar was requested to permit inspection of records).

The two sections most commonly assigned to white applicants were Section 30 and Section 123, which read as follows:

Section 30: "There shall be no imprisonment for debt."

Section 123: "The governor shall see that the laws are faithfully executed."

[fol. 1711] The following table shows the incidence of these sections during this period.

	Total	Sec. 30	% Sec. 30	Sec. 123	% Sec. 123
Negroes	44	1	2	3	6.7
Whites	124	50	40	35	28

Prior to the date Mr. Coleman was notified of prospective inspection of his records, 9% of the Negroes and 63% of the whites received the short and easy sections assigned by the Registrar. Moreover, the forms of two of the three Negroes who received Section 123 reveal that these applicants were semi-literate and left their interpretations blank.

b. Assistance to White Applicants

Analysis of the Lauderdale County applications reveals that a very large number of white applicants, and a few isolated Negroes, have identical or substantially identical constitutional interpretations and statements of duties and obligations of citizenship. In many instances, both the interpretation and the statement of duties and obligations are identical. As a matter of convenience, we present statistics first as to Question 19 (constitutional interpretation) and Question 20 (duties of citizenship). In the analysis of identical answers to Question 20, we note the number of applicants who also wrote one of the standard constitutional interpretations.

[fol. 1712] 1. Interpretation Test

Section 30

The most massive assistance in the constitutional interpretation test was given to those applicants who were assigned Section 30 of the Mississippi Constitution ("There shall be no imprisonment for debt"). A total of 149 applicants (124 white, 25 whose race is unknown but believed to be white) had a series of verbatim interpretations of this section. A further 47 (39 white, 6 whose race is unknown and 2 Negroes) had interpretations which, while not precisely verbatim, retained the two salient features of the 149 standard answers:

- 1) they all had the same basic sentence structure; and
- 2) in each the word "debt" was simply rewritten, not explained.

The breakdown on the verbatim answers is as follows:

The following applicants (71 white, 16 unknown) wrote as their interpretations:

"No one can be placed in prison for debt."

Name	Date of Application
Tommi W. Crenshaw	8-2-61
Edward D. LaFavour	9-22-61
Ann LaFavour	9-22-61
Glenda A. Allen	9-29-61
Norman M. Rutledge	10-3-61
Anne S. Bell	10-13-61
Alton A. Parten	10-25-61
Hubert B. Weakley	10-25-61
Virgil L. Foster	11-28-61
[fol. 1713]	
Lara B. C. Rutledge	1-2-62
Jimmie L. McDuffie	1-8-62
Mabel R. Orr	1-12-62
Florence H. Hill	1-15-62
Rubye H. Hargon	1-17-62
Dorothy F. Acker	1-19-62
Patricia A. M. Watts	1-19-62
Carl R. Scarlet	1-23-62
Ray A. McFailens	1-24-62
Pauline A. Rowell	1-24-62
Annie B. Autrey (Mrs. Horace)	1-24-62
Willie L. Davis	1-25-?
Marie B. DeFord	1-25-62
Mrs. R. L. (Lois) Fulton	1-25-62
Williard M. DeFord	1-25-62
Mary G. Chisolm	1-26-62
Roy L. Spann	1-26-62
Marie H. McLemore	1-29-62
Reginald J. Dufore	1-29-62
Richard A. Cumberland	1-30-62
Billy H. Covington	1-30-62
Mary Alice Stewart (Mrs., Junior)	1-31-62
Mary P. (C. M.) Melton	1-31-62
Clara F. Webb	1-31-62

Name	Date of Application
Gladys F. Lawrence	1-31-62
Rachel B. May	1-31-62
Margie C. Turner	1-31-62
Ruth K. Holt	1-31-62
Alice G. Thrash	1-31-62
Thomas J. Seay	1-31-62
Roy M. Alexander	1-31-62
Frank F. Alley	1-31-62
Joyce S. Randall	1-31-62
Thelma C. Caldwell	1-31-62
James J. McCarty	1-31-62
James A. Gibson	1-31-62
Sarah R. Combs	1-31-62
Lucinda J. R. Peacher	2-1-62
Delia D. Manley (Mrs. C. Y., Jr.)	2-1-62
Kaye F. Rutledge	2-1-62
Myrtle Ruth B. Faucette	2-2-62
Janette M. Shirley (E. E.)	2-6-62
John W. Stewart, Jr.	2-6-62
Willie R. Bloylock	2-7-62
Georgia L. Alford	2-7-62
Doris M. Baker	2-8-62
[fol. 1714]	
Horace T. Overby	2-20-62
Berten M. Sellers	2-21-62
Tomie P. Sellers	2-21-62
Patsy I. H. Gammons	2-22-62
Theodore C. Glover, Jr.	2-27-62
Rufus W. Skinner	3-11-62
Mrs. Johnnie P. Shields	3-1-62
William B. Gunn	3-2-62
Marjorie A. Deace	3-5-62
Kay Frances H. Smith	3-12-62
Miss Rowena Butler	5-14-62
Dallas Shannon	5-30-62
Everette A. Shannon	5-30-62
Albert W. Miller	5-31-62
James B. DuBose	6-6-62
Cecil B. Goforth	6-8-62

Name	Date of Application
Silas M. Jones	6-8-62
James W. Cattles	6-15-62
Thersia A. Otwell	7-20-62
James Norris Holmes	8-27-62
Robert B. Edwards	8-27-62
Kinley Steve Tucker	9-4-62
Franklin Meredith Sharp	9-12-62
Walter Robert Brown	9-14-62
Travis Donald Maiden	9-14-62
Mack Auston Killen	9-14-62
Sidney Frances Mars	9-28-62
John R. Carroll	10-3-62
Leroy C. Collins	10-11-62
Mary A. Fleming	11-15-62
Marion I. Martin	11-26-62
Duanne Roberts	12-4-62

The following group (14 white, 1 unknown) varied from the first group only by one letter, and wrote:

"No one can be placed in prison for a debt."

Name	Date of Application
Leonard L. Brown	12-11-61
George E. Thomas, Jr.	1-22-62
Harold C. Bacustou	1-30-62
Nettie R. Thompson	1-31-62
Mrs. Alma M. Bontwell	1-31-62
Mrs. Mary Andreacchio	1-31-62
[fol. 1715]	
Leonard S. Bautwell	1-31-62
David J. Faucette, Jr.	2-2-62
Adell R. Morgan	2-8-62
Carolyn Sue Burrage	2-21-62
Mrs. Mary M. Wakeland	2-26-62
Jewel P. Williams	3-6-62
Robert W. Jackson	6-6-62
Lona H. Carroll	10-3-62
Robert A. Kidd	10-31-62

The following applicants (13 white, 1 unknown) wrote:

"No one can be put in prison for debt."

Name	Date of Application
Marion W. Collins	9-18-61
Floyd M. Homick	1-8-62
Curtis J. Rose	1-22-62
Marion W. Hughes	1-22-62
Sara C. (A. M.) Brown	1-23-62
Nola T. (V. L.) Rhodes	1-23-62
Letetia A. Ethridge	1-26-62
Norine E. Curran	1-30-62
Edwin O. Brown	1-31-62
Willard I. Clearman (Mrs. Floyd)	1-31-62
Otha C. Grossett	1-31-62
Lucille Moore	1-31-62
Mrs. Ann M. Welch	1-31-62
Sharon D. Hedgpeth (Mrs. J. W.)	5-4-62

The following applicants (16 white, 2 unknown) wrote:

"No one can be put in jail for debt."

Name	Date of Application
Buron M. Tolbert	1-12-62
Charles Hazuewood	1-15-62
Ruth (M. L.) Linton	1-22-62
Mamie A. Hughes	1-22-62
Roy A. Walker	1-23-62
Horace L. Autrey	1-24-62
Dorothy L. P. Rayner (Mrs. E. L.)	1-25-62
[fol: 1716]	
Jack E. Wells	1-30-62
Rufus A. Rowson	1-30-62
Alvin L. Cattett	1-31-62
Ethel L. B. Wells	1-31-62
Grace Fagan (Mrs. R. M.)	2-5-62
James S. Boutner	2-26-62

Name	Date of Application
Oscar H. Pruett	6-4-62
Jewell P. Pruett	6-4-62
Shirley Poole Knight	9-20-62

The following applicants (5 white) all wrote:

"No one can be placed in jail for debt."

Name	Date of Application
Winfred N. Watts	1-19-62
Barbara J. Britt	1-29-62
Emma G. W. Spence	1-29-62
Tonie L. Ragsdale	3-15-62
Amanda Lee P. Stewart	10-22-62

The following applicants (4 white, 1 unknown) all wrote:

"No one can be placed in prison for debts."

Name	Date of Application
Bobby J. Griffin	10-10-61
Sara A. Wyche	1-19-62
Glemore W. Brome	1-23-62
Bennie F. Lucray, Jr.	1-31-62
Edna B. Sumrall	6-1-62

The following applicants (3 white, 3 unknown) all wrote:

"No one shall be placed in prison for debt."

Name	Date of Application
Archie D. Wright	1-19-62
Sue C. Otner	2-6-62
Samuel H. Hairston, III	2-19-62
Angella G. Thompson	5-31-62
Ruby L. Byrd	5-31-62
Joyce Davis Tucker	9-3-62

[fol. 1717] The following applicants (5 white, 1 unknown) attempted to write a standard interpretation but came out, instead, with a statement within a word of the following:

"No one can be placed imprisonment for debt."

Name	Date of Application
Howard Clearman	1-22-62
Willie D. Kenard	1-26-62
James T. Brand	1-30-62
James E. Smith	2-23-62
Oscar L. Morgan	6-25-62
Avaree Gardner	9-28-62

The following applicants (36 white, 2 Negro, 6 unknown) wrote standard interpretations which, while not verbatim, retained the general structure of the verbatim answers and repeated rather than explained the word debt:

Name	Date of Application
James E. King (Negro)	2-2-61
Mrs. Mittie E. Hitt	9-27-61
Oren L. Waddell	1-2-62
Sadie J. Posey (Mrs. C. K.)	1-15-62
James E. Jackson	1-16-62
Vernon A. Tice	1-18-62
Garlon P. Acker	1-19-62
Patricia (W. L.) King	1-22-62
Cecil K. Posey	1-22-62
Walter S. Tarrance	1-23-62
Mamie E. Banes	1-26-62
Richard Lawson	1-26-62
Irene E. McMullan	1-29-62
Patsy M. Spence	1-29-62
Edna B. (L. C.) Stewart	1-29-62
Sylmon L. Wilson	1-29-62
John D. Danard (Negro)	1-30-62
Charlie L. Mosley	1-30-62
Betty Lou T. ney	1-30-62
Annie K. B. Ward	1-30-62

Name	Date of Application
Lola M. Allen	1-31-62
Robert G. Beasley	1-31-62
[fol. 1718]	
Thelma H. Betts (Mrs. Adrian B.)	1-31-62
Harry A. Gammons	1-31-62
Hazel S. (Mrs. C. A.) Gibson	1-31-62
Sara P. B. Jenkins	1-31-62
Hazel E. Thrash	1-31-62
Mary Ann Touchstone (Mrs. A. D.)	1-31-62
Clarence R. Hanna	2-1-62
John L. Slampley	2-1-62
Mrs. Gaynell G. Barber	2-2-62
Mrs. Bobby W. Smith	2-2-62
Edwin D. Price	2-5-62
Mrs. Clara Morgan	2-9-62
Mrs. Hilda C. Agent (Mrs. Jack)	2-12-62
Mrs. W. M. Jennings	2-13-62
Rita Faye McDuffie	2-15-62
Mims E. Johnson	2-23-62
Shirley M. Williams	7-2-62
Dorris Lorraine George	8-28-62
Willard Wayne Hughes	9-21-62
Flora Vivian Williams	9-27-62
Samuel C. Burton	10-5-62
Johnnie E. Driskill	10-15-62

) Twenty-six applicants, all white, wrote standard interpretations of Section 30 in a single day (January 31, 1962). Nineteen wrote "No one can be placed in prison for debt."

Section 123

Section 123 reads as follows:

"The governor shall see that the laws are faithfully executed."

The following applicants (13 white, 1 Negro, 1 unknown) wrote verbatim as their interpretation of Section 123:

"The governor shall see that the laws are carried out."
[fol. 1719]

Name	Date of Application
Rita W. Riley (Mrs. J. S.)	9-25-61
Carl D. Harper	12-18-61
Neppie H. Carmichael	1-4-62
Mrs. R. A. Phillips	1-9-62
Pearl M. Williams	1-9-62
Ruby J. Thompson	1-19-62
Billie J. Burt	1-26-62
Eugene W. Dubuisson	2-1-62
Marvin A. Moody	3-13-62
Meredith W. Koonce	3-29-62
Eva C. Miller	5-31-62
John B. Mayatt, Jr.	7-27-62
Lula Savell	10-5-62
Carolyn L. Gates	10-15-62
Bobby J. Barrett	11-8-62
Ida Mae N. Ford (Negro)	12-6-62

The following applicants (14 white, 3 unknown) wrote interpretations of Section 123 which varied only by one or two words from those in group 1, and all used the expression "carried out."

Name	Date of Application
Josephine A. Rutledge (Mrs. J. G.)	10-11-61
Curtis W. Bush	11-2-61
Mavis S. Richie	1-16-62
Dorothy A. Johnson (Mrs. C. L.)	1-19-62
William J. Rigdon	1-23-62
Nora E. Walker (Mrs. R. A.)	1-23-62

Dennis E. Richie	1-24-62
Mrs. Louis J. Menas, Jr. (Alice)	1-26-62
Virgil L. Price	1-30-62
Mamie D. Rawson (Mrs. G. C.)	1-31-62
Norma R. Johnson (Mrs. E. E.)	1-31-62
Walter W. Sylvester	2-26-62
Dan E. Duett	7-25-62
George H. Hester	6-4-62
Ann L. Davis (Mrs. Ronald C.)	6-15-62
Maye H. Rawson	6-19-62
Merle M. Taylor	12-4-62

[fol. 1720] 2. Statement of Duties and Obligations of
Citizenship

Identical and similar statements of the duties and obligations of citizenship are even more apparent in Lauderdale County than identical and similar constitutional interpretations. Many of the persons with standard statements of duties and obligations of citizenship also have standard interpretations.

One hundred eight applicants (91 white, 4 Negro, 13 unknown) have verbatim or almost verbatim statements of the duties and obligations of citizenship as the following:

"I, as a citizen, pledge allegiance to the Constitution of the U.S.A. and the state of Mississippi and will faithfully support same."

Seventy-nine of these 108 applicants also have standard constitutional interpretations. Twenty-two of the standard statements occurred on January 31, 1962 and twelve each on January 29 and 30. Of the 46 applicants who wrote standard statements during these three days, 41 were white, one a Negro, and four unknown. Twenty-six also wrote standard constitutional interpretations.

The 108 applicants with this standard statement, arranged chronologically, are as follows:

Name	Date of Application
Jaunice T. Norwood	3-21-61
Ann LaFavour	9-22-61
Glenda A. Allen	9-29-61

Name	Date of Application
Anne S. Bell	10-13-61
Kenneth W. Pouncey	10-19-61
Alton A. Parten	10-25-61
Daniel E. Wedgeworth	10-31-61
Hubert B. Weekley	11-28-61
Leonard L. Brown	12-11-61
Lara B. C. Rutledge	1-2-62
[fol. 1721]	
Oren L. Waddell	1-2-62
Mrs. David G. Culley (Elizabeth J.)	1-8-62
Jimmie L. McDuffie	1-8-62
Mabel R. Orr	1-12-62
Buron M. Tolbert	1-12-62
Florence H. Hill	1-15-62
Ruby H. Hargon	1-17-62
Elsie M. McKinney (Negro)	1-18-62
Dorothy F. Acker	1-19-62
Garlon P. Acker	1-19-62
Sara A. Wyche	1-19-62
Winfred N. Watts	1-19-62
Patricia A. M. Watts	1-19-62
Thomas E. George, Jr.	1-22-62
Annie M. Harding	1-22-62
Howard Clearman	1-22-62
Ray A. McFailens	1-24-62
Pauline A. Rowell	1-24-62
Houston L. Boler (Negro)	1-25-62
Marie B. LeFord (Mrs. W. M.)	1-25-62
Willie L. Davis	1-25-62
Mary G. Chisolm	1-26-62
Willie D. Kenard	1-26-62
Eddie R. Scott	1-26-62
Roy L. Spann	1-26-62
Richard Lawson	1-26-62
Mamie E. Banes	1-26-62
Patsy M. Spence	1-29-62
Emma G. W. Spence	1-29-62
Edna B. Stewart (Mrs. L. C.)	1-29-62
Rupert Freeman	1-29-62

Name	Date of Application
Donna S. Castle	1-29-62
Virgil David Scarbrough	1-29-62
Ethel I. T. Switzer	1-29-62
Edna P. Stone	1-29-62
Barbara J. Britt	1-29-62
Eula M. Smith (Mrs. M. R.)	1-29-62
Martha O. Johnson	1-29-62
Dorothy Faye Smith (Mrs. I. H.)	1-29-62
Nita Broadhead	1-30-62
Ruth Luke	1-30-62
John D. Danard (Negro)	1-30-62
Betty Lou Toney	1-30-62
Harold C. Bacustou	1-30-62
Cumberland, Richard A.	1-30-62
Annie K. B. Ward	1-30-62
[fol. 1722]	
Charlie L. Mosley	1-30-62
James T. Brand	1-30-62
Charles W. Webb	1-30-62
Lonnie Luke	1-30-62
Mrs. Elliott I. Burt	1-30-62
James J. McCarty	1-31-62
Sarah R. Combs	1-31-62
James A. Gibson	1-31-62
Roy M. Alexander	1-31-62
Ruth K. Holt	1-31-62
Alice G. Thrash	1-31-62
Clara F. Webb	1-31-62
Mary P. Melton (Mrs. C. M.)	1-31-62
Frank F. Alley	1-31-62
Leonard S. Bautwell	1-31-62
Harry A. Gammons	1-31-62
Thelma H. Betts (Mrs. Andrian B.)	1-31-62
Alvin L. Cattett	1-31-62
Robert G. Beasley	1-31-62
Carolyn S. Espey	1-31-62
Louis J. Bailey, Jr.	1-31-62
Elouise F. McKee (Mrs. Edward)	1-31-62
John B. Jones	1-31-62

Name	Date of Application
Willie G. Bogan	1-31-62
Mrs. June W. Gullett	1-31-62
Ruth C. Way	1-31-62
Edward A. Townsend	1-31-62
Billie J. Harper	2-1-62
Delia D. Manley (Mrs. C. Y., Jr.)	2-1-62
David J. Faucette, Jr.	2-2-62
Sue C. Otner	2-6-62
Bob C. Harper	2-6-62
Georgia L. Alford	2-7-62
Willie R. Blaylock	2-7-62
Horace S. Boswell	2-9-62
Hilda C. Agent (Mrs. Jack)	2-12-62
Berten M. Sellers	2-21-62
Mims E. Johnson	2-23-62
Mrs. Mary M. Wakeland	2-26-62
Theodore C. Glover, Jr.	2-27-62
Mrs. Johnnie P. Shields	3-1-62
William B. Gunn	3-2-62
Marjorie A. Deace	3-5-62
Jewel P. Williams (Mrs. J. H.)	3-6-62
Mrs. H. T. Overby	3-12-62
[fol. 1723]	
Albert W. Miller	5-31-62
Edna B. Sumrall	6-1-62
Cecil B. Goforth	6-8-62
James W. Cattles	6-15-62
Ralph E. Johnson (Negro)	6-20-62
Jo Ann R. N. McCloy	6-22-62
Spencer R. Martin	11-26-62

Fifteen applicants (13 whites, 2 unknown) wrote the same statement of duties and obligations of citizenship as those in group 1, except that they omitted the phrase "as a citizen". Eleven of them also had standard constitutional interpretation. Their statements, with very small variations, read as follows:

"I pledge allegiance to the Constitution of the United States and the state of Miss. and will support the same."

The persons in this group, arranged chronologically, are as follows:

Name	Date of Application
John B. Wood	8-7-61
Margaret E. Lovett	9-27-61
Norman M. Rutledge	10-3-61
Virgil L. Foster	11-28-61
Reginald J. DuFour	1-29-62
Marie H. McLemore	1-29-62
William A. Robinson	1-30-62
Rachel B. May	1-31-62
Gerald E. Barham	1-31-62
Nettie R. Thompson	1-31-62
Gloria E. Eason	1-31-62
Doris M. Baker	2-8-62
Horace T. Overby	2-20-62
Kay Frances H. Smith	3-12-62
Bobbie L. Jenkins	6-1-62

[fol. 1724] Fifty applicants, (43 white and 7 unknown), wrote a variant of the statement in groups 1 and 2, approximately as follows:

"I, as a citizen, will obey and support the Constitution of the United States at all times."

These statements are not verbatim, but they all contain enough of this phraseology to compel the conclusion that they had a common source. Their names, arranged chronologically, are as follows:

Name	Date of Application
Sylvia A. Watson	3-20-61
Tommi W. Crenshaw	8-2-61
Thomas R. Singley	8-4-61
Patricia King (Mrs. W. L.)	1-22-62
Billy H. Williams	1-28-62
Homer W. Roberts	1-29-62
Irene E. McMullan	1-29-62
Beatrice Misrok	1-30-62
Norine E. Curran	1-30-62
Cecil M. Alavine (Mrs. R. L.)	1-31-62
Linda W. Barrack (Mrs. C. B.)	1-31-62
Bennie F. Lucray, Jr.	1-31-62
Mrs. Alma M. Bontwell	1-31-62
Kennib C. Walker	1-31-62
Gladys F. Lawrence	1-31-62
Mary Alice Stewart (Mrs. Junior)	1-31-62
Sara P. B. Jenkins	1-31-62
Lola M. Allen	1-31-62
Margie C. Turner	1-31-62
Lucinda Peacher, Jr.	2-1-62
Kaye F. Rutledge	2-1-62
Myrtle Ruth B. Faucette	2-2-62
John W. Stewart, Jr.	2-6-62
Adell R. Morgan (Mrs. C. V.)	2-8-62
Mrs. Clara Morgan	2-9-62
Samuel H. Hairston, III	2-19-62
Darwin E. Stiffemire	2-20-62
Carolyn Sue Burrage	2-21-62
Patsy I. H. Gammons	2-22-62

Name	Date of Application
Dorothy B. Lendley	3-1-62
Rufus W. Skinner	3-1-62
Philip H. McWilliams	3-8-62
[fol. 1725]	
Glenda F. Rutledge	5-4-62
Dallas Shannon	5-30-62
Everette A. Shannon	5-30-62
Ruby L. Byrd	5-31-62
Angella G. Thompson	5-31-62
Robert W. Jackson	6-6-62
Shirley M. Williams	7-2-62
Maurice L. McDonald, Jr.	7-13-62
Therisia A. Otwell	7-20-62
Ernest L. Roberts	8-1-62
Leona M. Wise	8-3-62
James Norris Holmes	8-27-62
John Thomas Russell	9-11-62
Travis Donald Maiden	9-14-62
Sidney Frances Mars	9-28-62
Leroy C. Collins	10-11-62
Marion I. Martin	11-26-62
Duanne Roberts	12-4-62

The following six applicants, (five white, one unknown), wrote statements of duties of citizenship which contain obvious but unsuccessful attempts to write standard language in their statements of duties and obligations of citizenship:

Name	Address	Date of Application
(a) James P. Shelton (W)	Toomsaba	1-29-62
"I plead the leagin to the constitutional of the U.S. vote obey laws."		
(b) Jamie P. Sellers (W)	3442 17th Ave. Meridian	2-21-62
"I, as a citizen of the U.S.A., I pledge allegiance to faith and support the Constitution, both federal and loc'al."		
(c) James H. Edwards (W)	1306 45th Ave. Meridian	1-31-62
"I will face a support the constitution of U.S.A. I stat of Miss. and I will support it at all times."		

[fol. 1726]

Name	Address	Date of Application
(d) Robert A. Kidd (W)	1722 21st St.	10-31-62
"... I do pay allegiance to the flag of my country at all times."		
(e) Joseph W. Anders (U)	1514 16th Ave. Meridian	6-13-62
"I shall bare alligence to the constitution of the United States and the State of Mississippi."		
(f) Roy E. McPherson (W)	Rt. 7, Meridian	2-2-62
"It is my duty as a citizen to pay allegiance to the Constitution of the U.S.A. and the state of Mississippi at all times."		

The following 40 applicants (35 white, 4 unknown, 1 Negro) wrote statements of duties and obligations of citizenship containing, with only very slight variation, the phrase "loyal to God and country". Fourteen of them also have standard constitutional interpretations:

Name	Date of Application
Geraldine W. Bagley	1-15-62
Wayne Bagley	1-15-62
James E. Jackson	1-16-62
Dorothy A. Johnson (Mrs. C. L.)	1-19-62
Glemore W. Brome	1-23-62

Name	Date of Application
William J. Bigdon	1-23-62
Carl R. Scarlet	1-23-62
Nora E. Walker (Mrs. R. A.)	1-23-62
Horace L. Autrey	1-24-62
Barbara A. Boyd (Mrs. R. L.)	1-25-62
Louise Broadhead (Mrs. H. L.)	1-25-62
(Leona) Grace Cardwell (Mrs. H. K.)	1-26-62
Sylmon L. Wilson	1-29-62
Bonnie J. Roberts (Mrs. H. W.)	1-30-62
Louise H. Billingsley (Mrs. W. J.)	2-1-62
[fol. 1727]	
Robert M. Fagan	2-5-62
Carol Crawford (Mrs. E. G.)	2-7-62
Jerry R. McClesky	2-7-62
Robert B. Jarman	2-13-62
Mrs. W. M. Jennings	2-13-62
James E. Smith	2-23-62
Lottie O. Richardson	3-9-62
Flora Moody (Mrs. M. A.)	3-13-62
Marvin A. Moody	3-13-62
Tonie L. Ragsdale	3-15-62
Jewell P. Pruett	6-4-62
Eula Gipson	6-8-62
Sarrah L. Linton	6-19-62
John R. Anderson	6-29-62
James A. Harris	8-21-62
Max C. Morris	8-24-62
George William Denton Farr	9-12-62
Bobby Joe Evans	9-26-62
Willa Dean Keeton Evans	9-26-62
Dorothy J. Wilson	10-5-62
Carolyn J. Thomas	10-15-62
William D. Frazier	10-16-62
Levern P. Harper (Negro)	11-15-62
Charles W. Moseley	12-4-62
Merle M. Taylor	12-4-62

The following twenty-three applicants, (12 white, 11 unknown), all wrote statements containing the theme of loyalty to the government:

Name	Date of Application
Betty W. Moring	8-25-61
Mrs. Bennie R. Butler	9-7-61
Rita D. (Ryals) Boatnes	1-9-62
Doris L. Jones	1-29-62
Elsie M. Knight Wright (Mrs. R. W.)	1-29-62
James M. Bateman	1-30-62
Mavis L. E. Fagan	1-31-62
Mrs. Charles L. Harper	1-31-62
Dorothy L. Smith	1-31-62
Maryland L. Watson	1-31-62
Irene G. McGill	2-1-62
Mary V. Pettet	2-1-62
[fol. 1728]	
Virginia M. Temple	2-2-62
Christine M. Callaway	3-5-62
Mary Helen M. Sylvester	6-8-62
James E. Mardis	7-9-62
Elsie J. Mayatt	7-27-62
John R. Mayatt, Jr.	7-27-62
Dorris Lorraine George	8-28-62
Samuel C. Burton	10-5-62
Johnnie E. Driskill	10-15-62
Carolyn L. Gates	10-15-62

The following three white applicants, all of whom applied on January 29, 1962, wrote the following verbatim statement of duties and obligations of citizenship.

"Obey laws vote and take part in all things for the betterment of things always be loyal."

They also had substantially identical constitutional interpretations of Section 30.

Name	Date of Application
Doris B. Whatley (Mrs. N. E.)	1-29-62
Louise K. Kinnard (Mrs. J. B.)	1-29-62
Jacob B. Kinnard	1-29-62

The following eight applicants (6 white and 2 Negro) wrote substantially the following (only three are practically verbatim):

"My duties under a constitutional form of government is to uphold the Constitution of the U.S.A. and state of Mississippi and support same at all times."

[fol. 1729]

Name	Date of Application
James H. Coulter	1-26-62
Billie J. Burt	1-26-62
Winona H. Watkins	5-10-62
Miss Rowena Butler	5-14-62
Silas M. Jones	6-8-62
Avaree Gardner	9-28-62
Lona H. Carroll	10-3-62
John R. Carroll	10-3-62

c. Grading of the Application Form

1. Questions 19 and 20

Because of the large numbers of standard interpretations and statements of the duties and obligations, the question of grading was seldom applicable. White applicants who wrote erroneous interpretations and statements of duties and obligations were nevertheless accepted. There are three known white rejected applicants, 2 left questions 19 and 20 blank and the other wrote answers which are not comprehensible.

Two accepted white applicants (and 1 unknown but believed to be white) merely recopied the section of the constitution as their interpretations:

1. Bonnie Boykin, Rt. 3, Meridian, 1-12-62, Sec. 123.
2. Carolyn Davis, Rt. 6, Meridian, 1-29-62, Sec. 30.
3. Robert H. Bunyard, Causeyville, 1-19-62, Sec. 30.

The following groups of applicants, all white or believed to be white, were accepted in spite of wrong interpretations of Section 30:

[fol. 1730] Four applicants (three white, one unknown) had standard interpretations but wrote "death" (in two cases misspelled) instead of "debt". They were:

Name	Date of Application
Nita Broadhead	1-30-62
Ruth Luke	1-30-62
Maurice L. McDonald, Jr.	7-13-62
Robert L. Spears	8-7-62

Four applicants (three white and one unknown) interpreted Section 30 to mean, that a person may not be imprisoned for any reason, without mentioning "debt":

Name	Date of Application
Margaret E. Lovett	9-27-61
Milton T. Fulton	1-26-62
Bonnie J. Roberts (Mrs. H. W.)	1-30-62
Claire J. Wright (Mrs. A. D.)	6-29-62

Two applicants, both white, wrote interpretations of Section 30 which were unintelligible:

Name	Date of Application
Charlie H. Swanner	1-31-62
James H. Edwards	1-31-62

The following accepted applicants, all white, wrote wholly unresponsive answers to Question 20, the first two merely repeating their constitutional interpretation:

Name	Date of Application
Mary E. (May) Day	9-22-61
Bonnie Boykin (Mrs. L. E. B.)	1-12-62
Ruby H. N. Peere	11-14-61

[fol. 1731] 2. Perfect Form Requirement (other than questions 19 and 20)

In Lauderdale County no applicant is required to complete all the blanks on the form. Omitted questions on the form and omitted signatures were either brought to the applicant's attention by check marks or simply left blank. No applicant was rejected on the basis of the perfect form requirement.

[fol. 1732] Part III

The following is a list of Negroes who have been deprived of the right to vote as indicated. The numbers beside their names are the identifying numbers given in answer to interrogatories Nos. 23 and 24 of the State of Mississippi. Specific registration experiences, if any, are set out in Part I above. If the name bears no identifying number, the Lauderdale County application forms have been used to determine whether the applicant should be included.

a. The following nineteen Negro applicants for registration in Lauderdale County are believed to have been deprived of the right to vote because of the constitutional interpretation test:

Number	Name	Date of Application
33058	Mamie D. Wooten	3-22-60
	Beatrice Madison	1-17-61
	Maggie B. Sweetner	1-18-61
38004	Robert H. Chess	1-20-61
38018	Ida M. Ford	1-26-61
38001	Amelia K. Bishop	1-30-61
	Mary A. Stennis	1-30-61
38041	Ulpiana P. Sims	1-30-61
38040	Annie Simmons	1-30-61
38037	Sarah Pollard	2-1-61
38029	Pearl E. Ivy	2-1-61
38019	Mrs. Alberta Gordon	3-8-61
	Smiley D. Gibson	6-12-61
	Hilda R. Ford	7-11-61
38030	Robert L. Johnson	1-30-62
38023	Henry Hearn	1-31-62
	Audry W. Hughes	1-31-62
38046	Ollie V. Sykes	1-31-62
	Mrs. Willie M. Clark	7-23-62

[fol. 1733] b. The following two Negro applicants were deprived of the right to vote because of the duties and obligations test. The four with asterisks were subsequently registered.

Number	Name	Date of Application
38058	Mamie D. Wooten	3-21-61
38018	Ida M. Ford	2-18-61
38048	Mrs. Exie Thomas*	3-7-61
	Mrs. Eva B. Craft*	3-7-61
	Florence D. Butler*	3-7-61
28055	Lurrie Willis*	3-7-61

[fol. 1734] Neshoba Co. #63

Part I

A

The following Negro citizen of Neshoba County was not permitted to register to vote at the Circuit Clerk's office in Neshoba County.

50001 About 1956 Went alone to register. Registrar
Refused stated Negroes not allowed to reg-
Richardson-R ister.

[fol. 1734a]

Noxubee #65

Part II.

Application Forms

1&2. Number of Application Forms

Period includes forms from 1/14/61 to 7/20/63.

White

Accepted
Rejected276
0

No Negro forms

3. Analysis of Forms

a. Selection of Constitutional Sections.

Section	No. of applicants
20	17
30	21
34	12
35	31
50	7
67	12
100	9
114	10
128	11
130	21
143	14
153	6
164	6
209	9
250	6

The remaining applicants were asked to interpret one of 30 or more other sections of the Mississippi Constitution.

b. Assistance to White Applicants.

(1) An analysis of the application forms shows many similarities in the answers to question 9 (interpretation), [fol. 1735] (a) The following registrants all had the phrase "under the law" or some variant thereof in their interpretation.

Section 20

Date of Application	Name	Interpretation
3-25-61	Butler, Henry Ray	Under the Mississippi law no citizen can be elected to office for life.
12-27-61	Wright, Henry L.	Under the Mississippi law no person can be elected for life.
1-8-62	Conner, Nellie R. Mrs.	Under the Mississippi law ever person elected to office shall be for a specified period.

Section 22

Date of Application	Name	Interpretation
9-2-61	Boykin, Franklin Eugene	Under the Mississippi law no person should be tried for the same crime twice.

Section 30

Date of Application	Name	Interpretation
12-30-60 [fol. 1736]	King, Douglas Raymond	Under the constitution of Mississippi a person cannot be jailed for debt.
1-16-61	Bryan, Velma Lee	Under the Mississippi law you cannot put a person in jail for a debt.
1-31-62	Cotton, Lonnie Eugene	Under the Mississippi law no person can be put in jail for a debt.
2-17-62	Person, Myrtle L.	Under the Mississippi law you cannot put a person in jail for a debt.
2-24-62	Higgenbath, Henry Clay	Under the Mississippi law no one shall be put in jail for a debt.
7-10-62	Berryman, Howard Grady	Under the Mississippi law you cannot put a man in jail on account of a debt.
10-3-62	Boykin, Jesse David	Under the Mississippi law you cannot put a man in prison for debt.
5-31-63	McArthur, Grace S.	Under the constitution you cannot put a person in jail for debt.

Section 34

Date of Application	Name	Interpretation
4-6-62	Pendergrass, Barbara Jane	Under the Mississippi law the members of the house of representatives is elected every four years by the qualified electors of the counties of representative district.

[fol. 1737]

Section 35

Date of Application	Name	Interpretation
1-25-61	Dunn, Alice Grey	Under the Mississippi law the members of senters is elected ever four years.

Section 57

Date of Application	Name	Interpretation
1-28-61	Cooper, Betty L. Mrs.	Under the law, neither house adjourn for more than three days without the consent of the other.

Section 67

Date of Application	Name	Interpretation
10-26-41	Hines, John D. Mrs.	Under the Mississippi law the legislation cannot introduce a new bill during the last 3 days of session.
5-11-62	Moore, Alma Inez	Under the Mississippi Law no bill should be introduced into the house in the last three days of the session.

Section 114

Date of Application	Name	Interpretation
1-26-62	Nance, Jule Harris	Under the Mississippi law, all election return will have to be made to the secretary of state.
[fol. 1738] 5-1-62	Cord, Delbert Richard	Under the Mississippi law all elections returns is made through the Sec. of state.

Section 116

Date of Application	Name	Interpretation
6-7-60	Simpson, Marjorie Waiernec	Under the law the Chief Executive cannot succeed himself within 4 years.

Section 130

Date of Application	Name	Interpretation
1-15-62	McBryan, Malcom Eugene	Under the Mississippi Construcion of the speaker of the house of representatives draw the same salary.

Section 164

Date of Application	Name	Interpretation
2-1-62	Bolin, Wayne Prentis	Under the Mississippi law the chancery court meets twice a year.
2-2-62	Jerrygigan, Henry Lamar	Under the Mississippi Constitution chancy court one held twice a year in each county of the State.
2-21-62	Kimbrill, James Thomas	Under the Mississippi Const. chancery court is held each in their county twice a year.
[fol. 1739] 2-7-63	Eaves, Tommy Oswen	Under the law all chancery courts shall be held twice a year.

Section 207

Date of Application	Name	Interpretation
2-14-62	Guyton, Janet Holliman	Under the Miss. law there shall be separate school for the races.

Section 250

Date of Application	Name	Interpretation
2-8-62	Cooper, Lary Bailey	Under the constitution no one is eligible for office unless he is a qualified elector, or otherwise provided in the constitution.

Section 265

Date of Application	Name	Interpretation
1-30-62	Cotton, Sarah Estes	Under the Mississippi Constitution anyone who doesn't believe in God cannot hold an office.
2-5-62	Flake, Marjorie Ann	Under the Mississippi Constitution no persone who do not believe in the supreme being shall not haold any office in the State.

[fol. 1740] (b) The following registrants all begin their interpretation of section 35 of the Mississippi Constitution with the words: "The members . . ."

Date of Application	Name	Interpretation
6-24-60	Ward, Eunice Mrs.	The members of senate is chosen by the QUALIFIED electors every four years.
7-5-60	Prince, Elizabeth Claire	The members of the senate are to be chosen every four years by qualified electors.
10-23-62	Bell, Ona G. Mrs.	The members of senate are lected every four years, by qualified electors.
12-7-62	Richardson, Herbert	the memberl is elected evory ford uear by the qualified elecctorl
1-15-62	Wright, Elizabeth Lypeey	The members of the senate are elected by the qualified voters of the districts every four years.
1-28-63	Harrell, Floyd Seaborn	The members is elected every four years by qualified electors.
3-2-63	Pike, Stella C.	the members of the senate is Elected Ever four years
5-6-63	Coch, Bobby Earl	the member of sentry in Election in every four years by the qualified electors
[fol. 1741]		
5-11-63	Dawkins, Betty Jean C.	The members of the senate are chosen by the qualified election every four years.
5-27-63	Lane, Robert Charles	The members of the senate shall be chosen for a term of four years by the qualified voters in each district.
6-10-63	Vaughn, William Vivian, Jr.	The members of the senate are elected by the people qualified to vote in the several districts of the state and are chosen for a four term.

(2) Similarities in the answers to question 20 (duties and obligations) are also evident.

(a) The following 42 registrants included in their answer to question 20 some or all of the "four freedoms." These are Freedom of speech, of assembly, of press and of religion.

Date of Application	Name	No. of "Freedoms" in answer
6-3-60	Gavin, Charlie C.	2
6-7-60	Simpson, Marjorie Waiernec	3
6-9-60	Treshour, Louis Taylor	2
12-16-60	Jelly, Lucille Lee Mrs.	2
1-25-61	Dunn, Alice Grey	1
1-30-61	Sanasing, Lessie Taylor Mrs.	3
2-6-61	Robbins, Elizabeth F.	3
6-21-61	Boykin, Patay	3
9-2-61	Boykin, Franklin Eugene	2
10-17-61	Woodward, James Thomas	3
11-24-61	Ferris, Douglas M.	3
12-27-61	Wright, Henry L.	3

[fol. 1742]

1-15-62	Wright, Elisabeth Lypsey	3
1-30-62	Cotton, Sarah Estes	1
2-7-62	Hizer, Howard H.	2
4-16-62	Pendergrass, Barbara Jane	1
5-8-62	Megehee, Margaret Ann S.	2
5-9-62	Gentry, Mildred Annette	2
6-5-62	Hunter, Harold King	2
6-13-62	Higgenbathen, William Traws	2
7-10-62	Berryman, Howard Grady	3
8-3-62	Hailey, Shirley R.	2
8-6-62	Culwell, Betty Lane	2
10-23-62	Bell, Ona G. Mrs.	3
10-23-62	Bell, Charles G.	3
12-7-62	Richardson, Herbert	2
1-3-63	Brady, Joseph Armon	2
1-19-63	Butler, Arthur Gerald	3
1-22-63	Taylor, Glenda Miller	3
1-26-63	White, Maggie Faye	3
1-27-63	Vernon Margaret Virginia	1
3-2-63	Pike, Stella C.	2
3-8-63	Chambers, Thomas A.	3
3-15-63	Coleman Cleveland Douglas	4
3-18-63	Person, Thomas Earl, Jr.	3
4-3-63	Knepp, Edwin J.	2
4-6-63	Butler, Maxine	2
4-16-63	McRright, Robert Charles, Jr.	3
4-24-63	Boykin, Ina D. V.	2
5-11-63	Thompson, Eaudive Rea Regus	3
5-17-63	Thompson, Luois, Kr. Mrs.	2
6-3-63	King, William Ernest	33

(d) The following applicants included in their answer to question 20 a statement to the effect that we may worship and/or vote as we see fit or as we please.

Date of Application	Name
6-24-60	Ward, Eunice Mrs.
1-16-61	Bryan, Velma Lee
[fol. 1743]	
1-26-62	Nance, Jule Harris
2-5-62	Flake, Marjorie Ann
2-14-62	Guyton, Janet Holliman
5-25-62	Otis, Beanie S.
6-23-62	Lee, James M.
10-30-62	Lee, Betty Mary
12-29-62	Eaves, Gloria Jean W.
1-12-62	Higginbotham, Mary
1-26-63	Cooper, Betty Jean
2-15-63	Ratchiff, Nona Mae
4-13-63	Poas, Harry Edgar Jr.
4-27-63	Higginbotham, Betty
7-9-63	Pauloin, Riviea Victoria

(b) The following 14 registrants have in their answer to question 20 the words "support the const."

Date of Application	Name	Answer to Question 20
1-26-62	Conner, John L.	It shall be the duty as a citizen to support const and abide by the laws.
4-7-62	Richardson, Helen Irene	it is my duty to support the const in abide by the laws.
5-1-62	Cord, Delbert Richard	It shall be the duty of every citizen to support the const of our state and see the law be enforced by the one in charge.
11-14-62	Vernon, Doris I. H.	It shall be the duty of every citizen of this state to support the const, and abide by the laws set forth under the court.
1-12-63	Higginbuthum George L.	As a citizen it is my duty to support the const of this state and abide by its laws.
[fol. 1744]		
1-26-63	Butler, Roy Philip	It is my duty to support the const. of our state.
1-28-63	Harrell, Floyd Seaborn	It is my duty to support the const and abide by its laws.

Date of Application	Name	Answer to Question 20
2-4-63	Berryman, Eva Blanch	My duty is to support the const and uphold the laws.
2-27-63	Cockrell, M. B.	It is my duty to support the const of this state and abide the laws. s
3-18-63	Schrock, Ezra	It is my duty to support the const of this state and abide by its laws
3-20-63	Lee, Menno L.	It is my duty as a citizen to support the const of our state
5-6-63	Coch, Bobby Earl	It is my duty to support the const of the state and abide by the laws
6-6-63	Schrod, Rudy J.	It is the duty of every citizen to support the const and abide by the laws of our state.
6-10-63	Lee, Lydia Mrs.	It is my duty as a citizen to support the const and abide its law.

(e) The following registrants included in their answer a statement to the effect that our government is supported by/or through taxation.

Date of Application	Name
10-24-60	Ewing, Mary Estelle
1-28-61	Bell, Groyce Virginia
4-18-61	Poulovin, Frank M.
9-2-61	Boykin, Willie James
10-26-61	Hines, John D. Mrs.
(fol. 1746)	
1-20-62	Cockrell, Dorothy Helen
1-26-62	Conner, Eddie Pearl Beasley, Mrs.
1-27-62	Flora, Marjorie Morris
2-2-62	Jerrygigan, Henry Lamar
4-3-62	Pendergrass, William Glenn
4-27-63	Cooper, Tyson Eugene

(f) The following registrants included in their answer to question 20 a statement to the effect that a person may not be tried twice for the same crime.

Date of Application	Name
1-15-62	McBryan, Malcom Eugene
1-30-62	Beaman, Margaret
2-1-62	Bolin, Wayne Prentiss
2-2-62	Collins, Mary Elizabeth
4-3-62	Hamill, Vera Eula
2-12-62	Perkins, Kitty D.
3-2-63	Pike, Jesse Davis
3-6-63	Whitehead, Gladys W. K.

c. Grading

(1) Interpretations that are not responsive answers to the section assigned.

(a) The following registrants gave unresponsive answers in interpreting the section assigned them.

Section 35:

"The senate shall consist of members chosen every four years by the qualified electors of the several districts."

Date of Application	Name	Interpretation
4-30-63	Higginbotham, Peggy Sue	The ones chosen to be in the senate will be there because they were trustworthy to be vote in.

[fol. 1746] Section 67:

"No new bill shall be introduced into either house of the legislature during the last three days of the session."

Date of Application	Name	Interpretation
8-5-62	Hailey, Shirley R.	Under Mississippi law either house or legislature during the last three days of the session.

Section 114:

"Returns of all elections by the people shall be made to the secretary of state in such manner as shall be provided by law."

Date of Application	Name	Interpretation
6-4-60	Rickert, George H.	The above gives to the Secretary of State a general view of the trend of the voting public.

Section 130:

"The lieutenant-governor shall receive for his services the same compensation as the speaker of the house of representatives."

Date of Application	Name	Interpretation
5-1-63	Allsup, Mary H.	The lieutenant-governor acts the same as governor as vice-president to president and is paid the same.

(6) The following registrants gave answers to question 20 which are non-responsive.

Date of Application	Name	Answer to Q. 20
1-24-63	Woodfin, James Barrett	I do fully understand the obligations of a citizen and the constitutional form of gov.
[fol. 1747] 1-29-63	Permenter, Roger F. Jr.	My understanding of the duties and obligations are the things we can and cannot do under our form of government.
3-13-63	White, Dean Mrs.	Our privileges which we have and the things we can do and can't do under our form of government.
3-16-63	Higginbotham, Ralph R.	You are suppose to be able to recite the preamble of the constitution. You are supposed to be a citizen of the state & country in which you register to vote.
5-31-63	McArthur, Grace S.	Under the const. every one over 21 yrs. old has the right to vote.
6-7-63	Vernan, James Willie	Your duties and obligations to the state and government under the constitution.
6-7-63	Nernan, Marie H.	Your duties and obligations to the state and government under a constitution.

(e) No perfect form requirement.

Seventy-five per cent of the applicants for the period mentioned above leave the final applicant's signature line blank.

Part 1

A

The following Negro citizens of Forrest County were not permitted to apply to register to vote. All events described below occurred in the Circuit Clerk's office in Hattiesburg. In Forrest County the women deputy clerks register white persons.

- | | | |
|-------|--|---|
| 18125 | 9/15/55
Refused
Woman | He went to the office of the Registrar, but was told by a white lady there that he would have to see Mr. Cox as she could not register him. |
| 18060 | 9/15/55
Refused
Woman | She went to the office of the Registrar and was told by a lady there that he would have to see Mr. Cox as she could not register her. |
| 18056 | 9/15/55
Refused
Woman | He went to the office of the Registrar where he was told by a white lady that he would have to see Mr. Cox as she could not register him. |
| 18037 | 9/15/55
Refused
Woman | He went to the office of the Registrar and was told by a lady there that he would have to see Mr. Cox, as she could not register him. |
| 18021 | Early Fall
1956
Refused
Cox-R | In the early Fall of 1956, she made another attempt to qualify herself to vote in the Presidential election. She met Mr. Cox in the registration office and again asked if he would allow her to register. Again Cox simply replied, "No, I won't do it." |

18021 Spring
1956
Refused
Cox-R

In order to try to qualify to vote in the Presidential election of 1956, she paid her poll taxes and went into the registration office in the Spring of 1956. She was waited on by Mr. Cox and told him that she wanted to register. She showed him her poll tax receipts. Cox asked her if she were a school teacher and she replied that she was a housewife. Then Cox said simply that he would not register her now. She asked him why, but he merely repeated that he wouldn't register her.

[fol. 1749]

18082 1956
(Spring)
Refused
Woman

She attempted to register accompanied by her husband and went to the registration office. They were met by a woman clerk in the office. When they told her that they wished to register she told them that they would have to see Mr. Cox and that he was not in at the time.

They returned a few weeks later and again were told by a female clerk that they would have to have to see Mr. Cox who was not there.

18056 April 1956
Refused
Cox-R

Went to the office of the Circuit Clerk to register; spoke to Mr. Cox, who first asked if he had someone to teach him how to vote, to which he replied that he did not; Cox then said there was a suit pending and that he would wait until it was settled.

18070 10/16/56
Refused
Cox-R

Cox refused to permit him to register.

1090

18070. 1956
Refused
Cox-R

Mr. Cox told him that he could not register because he had been going to school outside Mississippi, that he would have to wait two years; he said he had not changed his address, but Cox still refused.

18115 About 1956
and 1957
Refused
Woman

He went to the clerk's office and asked for Mr. Cox. One of the female clerks told him that Cox was not in. When Stewart asked if this clerk would register him, he was told no, that he would have to wait for Cox.

Went again in 1957 and got the same story.

18046 1956
Refused
Woman

He went to the registration office alone. He was told by one of the clerks that Mr. Cox was out, in court, and that he would have to see him in order to register.

[fol. 1750]

18117 Jan. 1956
or 1957
Refused
Woman

He attempted to register at poll tax paying time in 1956 or 1957. When he went, into the registration office one of the clerks told him that Cox was not there and that he would have to come back when Cox was in.

18075 January
1957
Refused
Cox-R

He went to the office of the Circuit Clerk to register; Mr. Cox was not in when he arrived, and the lady in the office said she could not register him, that only Cox could do that. He waited for Mr. Cox and when Cox came into the office, he refused to register him and would not give his reason for the refusal.

- 18077 Jan. 1957
Refused
Cox-R He went to register. Mr. Cox asked him where he lived, where he was from, if he were a member of the NAACP and who sent him. Mr. Cox then told him he had better wait a while.
- 18013 March 1957
Refused
Cox-R Went to the office of the Registrar and was refused re-registration by Luther Cox; Cox gave no reason for the refusal.
- 18013 June, 1957
Refused
Cox-R Bourn accompanied Rev. John M. Barnes and one other to the office of the Registrar for purpose of re-registering; Cox refused them, saying something about waiting until a lawsuit was settled.
- 18056 April 1957
Refused
Cox-R Went to the office of the Circuit Clerk to register, but Mr. Cox said he would have to wait a while and did not give any reason for the delay.
- 18070 11/7/57
Refused
Cox-R Clyde Kennard went to the office of the Circuit Clerk, accompanied by Rev. John M. Barnes; informed a secretary that they wished to register; secretary said they would have to wait for Mr. Cox, who would be back shortly; when Cox arrived, they told him they wished to register; Cox said he did not think he would register them that day; Kennard asked the reason for the refusal, and Cox asked if they wanted a statement to be used against him and if they be-

[fol. 1751]

18070 11-7-57
 Con. Refused
 Cox-R

longed to the NAACP; Barnes replied that he did belong to the NAACP, Kennard said he did not, after which Cox walked away; again they requested to be registered, but Cox stated he had nothing further to say, at which point they left the office.

18083 Fall, 1957
 Refused
 Woman

Went to the office of the registrar with a group of negroes, including Rev. W. D. Ridgeway and Rush Lloyd; told the two women in the office that they wished to register; the women said they had orders not to register negroes, and they would have to see Mr. Cox.

18014 1957
 Refused
 Woman

He went to the registration office but was told by a woman clerk that Cox was out and that he could not register under him. When he asked her when Cox would be in she said that she did not know.

18015 1957
 Refused
 Woman

He attempted to register accompanied by Rush Lloyd and W. D. Ridgeway in 1957. They were met by a female clerk in the registration office who informed them that Cox was not there and that they would have to see him to register.

18095 1957
 (Approx.)
 Refused
 Woman

Rev. Nobles attempted to register in 1957. He went to the registration office accompanied by Rev. W. T. Ridgeway, Rev. C. Fairley, Rev. Johnie Barnes, Rev. G. W. Williams and one or two other ministers. They arrived at the office at about 11 o'clock. A young woman clerk told them that they would have to see Mr. Cox who was not in at the moment. So they all left.

18014 1957-1958
Refused
Woman

Mr. Bourn went with a group which included Rev. John Barnes, Rush Lloyd; Vernon Dahmer and perhaps B. F. Bourn, to the registration office to attempt to register. They were told by a woman at the office that Cox was not in and that they could register only under him.

[fol. 1752]

18077 1957 or 1958
Refused
Cox-R

He asked a lady in the registrar's office if he could register. She told him the registrar was out. He asked when he would be in. She said he had no special time to come in.

18118 Spring, 1958
Refused
Cox-R

Having moved to Hattiesburg from Lauderdale County, where he was a registered voter, Rev. Taylor went to the office of the Circuit Clerk to register; Cox at first told him he did not meet the residence requirements, as he had not lived in Forrest County for a year; Taylor reminded Cox that the residence requirement for ministers was only six months, but Cox still refused to register him until some things had been settled.

18091 April or
May
1958
Refused,
Cox-R

In April or May of 1958, Mr. Mosley went alone to the registrar's office to attempt to register to vote in Forrest Co. He met Mr. Cox in the office. He told Cox that he wished to register. Cox asked him his name, address and length of residence. Then Cox said there was a lot of red tape involved in registering and Cox said he didn't have the time to let him try now. Then Cox said that he thought that they were going to change it so he wouldn't have to go through it all and told Mr. Mosley to do come back later.

- 18091 June or July 1958
Refused
Cox-R
After being sent away in April or May 1958 and told to come back, Mr. Mosley made about three more attempts two months later. Each time a female clerk told him that Cox was not there and wouldn't be back that day.
- 18049 About 1958
Refused
Cox-R
He went to the Registrar's office and told Mr. Cox he wanted to register. Mr. Cox said he could not register.
- 18046 1958
Refused
Clerk
[fol. 1753]
Woman clerk told him that Cox was out that in order to register he would have to come back and see him.
- 18118 Fall, 1958
Refused
Cox-R
Went to the office of the Circuit Clerk along with Rev. W. H. Hall, intending to register; Cox asked how long he had lived in Forrest County and whether he had voted before; Taylor gave him his length of residence and told him he had voted in Lauderdale County; Cox then asked if he had his poll tax receipts, which he did not have with him at the time; as Hall and Taylor were leaving the office, Cox said they were not supposed to come to register in groups, but one at a time. Both Hall and Taylor returned with Taylor's poll tax receipts, which Cox examined for 10 of 15 minutes; Cox then asked if Taylor was a member of the NAACP; Taylor replied that he was; Cox then asked if he knew that the NAACP was a Communist organization; Taylor said it had not been declared such by the Department of Justice; Cox then told Taylor he could not register, after which Taylor left.

18015 1958
Refused
Cox-R

He went to the registration office accompanied by Rev. Ridgeway. They met Cox in the registration office. They asked him if they could register. He told them No, he was not registering you all. When they asked him why he just answered that he just wasn't going to. So they left the office.

18130 1958
Refused
Cox-R

He told Mr. Cox he wanted to register. Mr. Cox asked him his name, how long he had been living in Hattiesburg, where he worked, how far he went in school, and if he paid poll taxes. He answered the questions and showed him his poll tax receipts. After Mr. Cox looked at them he told him to come back later.

18130 1958
Refused
Cox-R

A few weeks after his last attempt he returned to register and told Mr. Cox he had come back as he had been told. Mr. Cox told him he could not register him.

[fol. 1754]

18008 1959
Refused
Lynd-R

Went to the office of the Circuit Clerk to register, accompanied by Vernon Dahmer; Lynd told them he could not register them, as he was not yet set up in his office to do so.

18070 1959
Refused
Lynd-R

Lynd said he could not register him as he had not been in office long enough to become familiar with the office.

18076 1959
Refused
Lynd-R

Went to the office of the Circuit Clerk to register, but Mr. Lynd said he had just gotten in office and did not understand about the registration.

18118

Refused
Woman

He went to register at Mr. Lynd's office. The lady clerk told him the office was not set up for registration.

18037

March 1959
Refused
Lynd-R

He was accompanied by Mrs. Pearlina Barnes. He asked a lady who works in Mr. Lynd's office if they could register and she said they would have to see Mr. Lynd. About that time Mr. Lynd came in and they asked him if they could register. He said he hadn't been in office very long and was not set up yet for registering people and he did not know when he would be ready to register people.

18013

3/3/59
Refused
Woman

He told a white woman clerk in the Registrar's office he wanted to register for voting and she said she could not register him, he would have to see Mr. Lynd.

18099

June 1959
Refused
Woman

When Rev. Ray attempted to register in June 1959, he was told by a woman clerk that he would have to come back because Lynd was not in the office at the time.

18013

Aug. 1959
Refused
Woman

He went to Mr. Lynd's office to register to vote. Mr. Lynd was not in his office so he asked the woman deputy if he could register. She told him he would have to see Mr. Lynd. He asked if Mr. Lynd was in the courthouse and she said he was not.

[fol. 1755]

18022

Fall 1959
Refused
Lynd-R

She told Mr. Lynd she wanted to register. He told her to come back.

18104

Summer
1959
Refused
Man

Rev. McAllister went to try to register accompanied by Rev. Nobles. They spoke to a middle aged man at the counter in the registration office. The man said the books are closed. They then left the office.

- 18075 March 1959 or 1960
Refused
Woman
Went to the office of the Registrar; lady said Lynd was out and she could not register him.
- 18118 1959
Refused
Woman
Lady clerk told him he would have to see Mr. Lynd to register.
- 18013 January 1960
Refused
Woman
Mr. Lynd was not in his office. The woman clerk told him he would have to see Mr. Lynd, that she could not register him.
- 18014 1-27-60
Refused
Woman
Lady in the office of the Circuit Clerk said he would have to see Mr. Lynd to register.
- 18056 1/27-60
Refused
Woman
Went with R. R. Lloyd to the office of the Circuit Clerk where a lady said they would have to wait for Lynd, which they did for one-half hour; then left.
- 18021 Fall, 1960
Refused
Woman
Went to the office of the Circuit Clerk, Thereon Lynd, to register; lady in the office said that Lynd was out and she would have to come back; she would have to wait, and the lady said she would have to wait in the hall, which she did for about 10 minutes, then left.
- 18055 Fall of 1960
Refused
Woman
Rev. Holliman went to the registration office accompanied by Rev. J. M. Barnes. When they went into the office they were met by a woman clerk. They told her they wanted to register. She said that since Mr. Lynd was not there they couldn't register.

[fol. 1756]

18073 Fall 1960
Refused
White lady
behind
counter

Robert Lewis, accompanied by David Roberson and Jesse Stegall, all Negro school teachers, went to the registrar's office. A white lady behind the counter was giving forms to a white lady who wanted to send a registration form to someone in the Armed Services. They then asked the lady behind the counter if they could register and she said Mr. Lynd was not in and they would have to come back when Lynd was in since no one but Lynd could register them.

18112 Fall 1960
Refused
White lady
behind
counter

Jesse Stegall, accompanied by David Roberson and Robert Lewis; all Negro school teachers, was told, at about 4:15 P.M., by a lady behind the counter in the Registrar's office that they would have to see Mr. Lynd to register and he was out. Stegall saw a white lady receiving a white form. They returned at about 10 minutes to 5 P.M. on the same day and a lady behind the counter in the registrar's office told them Mr. Lynd had not returned.

18101 Oct. 1960
Refused
White lady
behind
counter

David Roberson, accompanied by Jesse Stegall and Robert Lewis, all Negro school teachers went to the Registrar's office. A white lady behind ~~the counter~~ said Mr. Lynd was not in but might be in later that day. They returned later the same day and the same lady said Mr. Lynd was not in and he was the only one who could register them.

18112 Nov. 1960
Refused
Lynd-R

Jesse Stegall accompanied by David Roberson, both Negro school teachers went to the Registrar's office at about 4:10 P.M. and talked to Mr. Lynd. They told him they wanted to register and he said he could not register them, he did not have the time, and did not know when he would have the time.

18014 1/19/61
Refused
Woman

Lady in the office of the Circuit Clerk said he would have to see Mr. Lynd.

18013 Jan. 1961
Refused
Woman

Woman clerk told him she could not register him that he would have to see Mr. Lynd. Mr. Lynd was not there.

[fol. 1757]

18061 1-31-61
Refused
Lynd-R

Dewey Johnson, Myles Jones, Sam Hall, T. F. Williams, D. D. Stewart, A. C. Cooper, Cornell McRee and Sherman Jackson all tried to register the same day. They got to the office about 4 P.M. Mr. Lynd took one at a time. Only Myles Jones got to go in that day.

18049 1-31-61
Refused
Lynd-R

At about 4:15 P.M. Sam Hall, Sherman Jackson, Myles Jones, Cornell McRee and other Negroes went to register to vote, Mr. Lynd asked each how long he had lived in Hattiesburg and then he told Myles Jones to come in and told the rest to wait in the hall. When Myles Jones finally came out they left. Also in the group were Willie Simpson, T. F. Williams, Willie Thigpen, A. C. Cooper, Dewey Johnson, Kenneth Beard, and Johnie Watts, all Negroes.

18058 1-31-61
Refused
Lynd-R

A group of about 8 Negroes went to register to vote. Lynd asked him where he worked and how long he had lived in Hattiesburg and then told the group to wait in the hall. One Negro, Myles Jones, went into the office. They did not get to register so they all went home.

18080 Jan. 1961
Refused
Lynd-R

Mr. McRee attempted to register for the first time in January of 1961. He was accompanied by about 8 or 10 men who work at the Hercules Powder Co.: A. C. Cooper, Willie Simpson, T. F. Williams, Dewey Johnson, Willie Thigpen, O. D. Stewart, Johnie Watts, Kenneth Beard, Sam Hall, Myles Jones, Sherman Jackson, and perhaps some others. They talked to Mr. Lynd and each told him his name, age and length of residence in Hattiesburg. Then Lynd told them he could take only one at a time. Myles Jones went first and the others waited in the hall. They arrived at the office at about 4 o'clock and waited in the hall for Jones to come out until about 5 o'clock. Jones finally came out but no one else was called in. Finally the janitor came around turning off the lights, so they left. About two

[fol. 1758]

18080 Jan. 1961
(Con.)

or three days later, McRee returned to the office this time accompanied by T. F. Williams, Lynd was there but a woman waited on them. She told them she could not take more than one at a time and took Williams into the office. McRee went to the hall and waited from about 4 to 5 o'clock closing time and then left.

18115 1-31-61
Refused
Lynd-R

Mr. Stewart went with the group of 8 or 10 from the Hercules Powder Plant. They was told to wait in the hall while Lynd took one at a time and Jones went first. He waited with the others in the hall until after 5:00 when the office closed and they all went home.

18119 1-31-61
Refused &
rejected
Lynd-R

Willie Thigpen went to register with Myles Jones, Dewey Johnson, Sam Hall, Sherman Jackson, Willie Simpson, T. F. Williams, A. C. Cooper, Kenneth Beard and Johnnie Watts. They got to the office about 4 P.M. Mr. Lynd took one at a time. Only Myles Jones got to go in that day, filled out a form and was rejected.

18124 1-31-61
Refused
Lynd-R
Woman

Went to the office of the Circuit Clerk to register with a group of other Negroes including Myles Jones, Sam Hall, Willie Thigpen, Dewey Johnson, Kenneth Beard, T. F. Williams, A. C. Cooper, and Willie Simpson; Myles Jones took the test, but by the time he had finished they said they did not have the time to take the rest of the group. Returned the following day about 10:00 a.m.; lady in the office said they were too busy, and asked him to come back later. Returned the next day and again the lady said they were too busy, asking him to return on a later day.

1102

18034 1-31-61
Refused
Lynd-R
Woman

[fol. 1759]

18034 1-31-61
(Con.)

Mr. Cooper attempted to register with a large group of men from the Hercules Powder Plant. They arrived at the office at about 5 or 10 minutes to 4:00. When Cooper arrived the registrar had already started to take the group one at a time and Myles Jones was inside. Jones was the only one of the group permitted to go in and attempt to register; the rest including Cooper waited in the hall until they were told to go home at closing time. Later in the same week, Cooper returned to the office and asked if he could register and one of the women clerks did not permit him to do so. The next week Mr. Cooper tried again (on a different day of the week) again was not permitted to apply.

18011 1-31-61
Refused
Lynd-R

Went to the office of the Circuit Clerk with Myles Jones, O. D. Stewart, Willie Thigpen, T. F. Williams, and Sam Hall; arrived there about 4:00 p.m., after having paid poll tax; people in the office said they had time for only one applicant: Myles Jones went in, the rest waited in the hall; at 5:00 p.m., the courthouse closed, and they had to leave. Returned to the office two days later with six others, again at approximately 4:00 p.m.; T. F. Williams went in and took the test; at 5:00 p.m. the courthouse closed, and they had to leave.

18005 February
or March
1961
Refused
Lynd-R

Mr. Barnes attempted to register in February or March 1961. He went to the registration office alone and met Mr. Lynd. Lynd asked him what he wanted and Barnes told him he wanted to register. Lynd asked how much education he had and Barnes replied 10th grade. Then Lynd told him that he didn't have enough education and therefore couldn't register.

18099 About
March 1961
Refused
Woman

Went to the registrar's office and was told by a female clerk that he could not register because Lynd was not there and only Lynd could register him.

[fol. 1760]

18073 9-28-61
Refused
Lynd-R

Robert Lewis, Jesse Stegall and David Roberson, all Negro teachers, went to the Registrar's office at about 4:10 P.M. and told a white lady behind the counter they wanted to register. She called Mr. Lynd and he asked who they were and where they worked and how long they had lived in the county and then said he did not leave enough time before closing to register but one of them. They decided to wait till the next day.

18112 9-28-61
Refused
Lynd-R

Jesse Stegall, accompanied by David Roberson and Robert Lewis, all Negro teachers went to the Registrar's office at about 4:10 P.M. Mr. Lynd told them they could not all register at the same time but must do so separately. He also said if they did not finish the form by 5 P.M. they would have to start over. As it was late in the day they decided to return another day.

1104

18080 9-29-61
Refused
Lynd-R

Mr. McRee attempted to register for the third time on September 29, 1961, when he went alone to the registration office arriving at about five minutes to 4. Mr. Lynd and Mr. Stegall, a Negro teacher were there. Mr. Stegall was taking his test. Lynd asked what he could do for him and McRee replied that he wanted to register. Lynd asked how long he had been living in the city and where he lived. Then Lynd told him that he had one fellow there he was giving the test to. He also said there were 5 other fellows coming to take the test that afternoon. Then Lynd told McRee that he couldn't take him that evening and the next day he wouldn't have any help. So he said to McRee, "You come back Monday or any day next week and I will give you the test."

[fol. 1761]

18142 10-2-61
Refused
Woman

Went to register with David Roberson. The lady clerk said Mr. Lynd was out and he was the one to see about registering.

18130 10-2-61
Refused
Woman

The lady told him Mr. Lynd was in court at the time.

[fol. 1762]

B

The following Negro citizens of Forrest County were not registered to vote because they did not interpret the constitution to the satisfaction of the registrar. All events described below occurred in the Circuit Clerk's office in Hattiesburg.

18039 June 1958
Rejected
Cox-R

Mr. Davis attempted to register in the summer of 1958 and was accompanied on this attempt by Thomas Hall. They met Cox in the registration office and told him that they wanted to register. Cox asked them where they lived. Then Cox asked Davis the meaning of a section of the constitution. Davis told him that he didn't know. Cox replied, "You are not qualified to register unless you know some of the constitution. So they left.

18039 April (Appr) 1958
Rejected
Cox-R

Mr. Davis attempted to register in about April 1958 and was accompanied to the office by I. C. Peay and Jonnie Hand (dead). They met Mr. Cox and told him that they wanted to register. Cox asked them if they could repeat a section of the constitution. Rev. Peay replied that he didn't know and asked what it contained. Cox then asked what a section of the constitution meant. Peay couldn't answer so Cox told them, "You are not eligible to register if you don't know the constitution. You need to go back and study if you don't know the constitution." So they left.

18065 1-1-61
Rejected
Lynd-R

Rev. Jones attempted to register to vote in Jan. 1961. He was accompanied by a large group of men from the Hercules Powder Co. Lynd asked all the members of the group for their names, etc. Then he said that he could take only one at a time and so Rev. Jones went with him into an inner office. Jones was given an application and a card with a section of the constitution on it. After a

[fol. 1763]

time a woman came in and waited until he had finished. He gave her the form and left. The woman walked out into the hall and told the others that they couldn't take anyone else that day because it was closing time. He was rejected.

18119 2-1-61
Rejected
Woman

A woman gave him a form and Section 121 to interpret. The section was so long he needed an extra piece of paper to copy it, and the woman gave him the paper. He filled out the form and he returned the next Monday to see if he passed. Mr. Lynd told him he did not qualify.

18091 2-3-61
Rejected
Woman

He went to register late in the afternoon. The lady clerk gave him a form and Section 211 to interpret. The section was so long he needed an extra piece of paper to copy it. By then it was near closing time so she told him he would have to return after six months and fill out a form. He did not get to complete the form by the time she closed for the day; thus, Q19 is blank and Q21 is blank, though he copied the section in Q18 and on the extra piece of paper.

18069 9-28-61
Rejected
Lynd-R

Mr. Kelly went to the registration just before noon and saw Mr. Lynd. He got a form and Section 112 of the constitution to fill out and interpret. He was not finished when the office closed at noon, but he came back in the afternoon and finished the form. He signed the form and gave it to Lynd. Lynd told him that he would have to come back in 2 or 3 days to see whether he had passed. He was rejected.

18119 5-59-62
Rejected
Lynd-R

He filled out the form and was rejected because he re-copied Section 160 as his interpretation of Section 160.

[fol. 1764]

B

18052 April
1962
Rejected
Lynd-R

Mr. Henry went to the registration office with Bennie Hines, Rev. J. W. Brown, and Betty Jean Steppes. The four of them went in and met Mr. Lynd. They told him that they wanted to register. He took them one at a time and asked them each his name, address, length of residence and finally occupation. Henry, Brown, and Hines answered that they were school bus drivers. Then Lynd announced that he could take only two at a time and so Henry and Miss Steppes went first. When he finished the form, Mr. Henry gave it to Lynd. Lynd looked at it and then said that it was unsatisfactory and that he couldn't accept it.

18121 5-7-62
Rejected
Woman and
Lynd-R

She went to register with Annie Pool. The lady clerk said Mr. Lynd was in court. They waited 30 or 45 minutes, and then Mr. Lynd gave her a form and Section 124 to interpret, and then told her she did not pass. She was rejected because of her interpretation.

18141 6-21-62
Rejected
Lynd-R

She went to register with Gloria Bivins. She filled out a form and interpreted Section 224. Mr. Lynd told her it would be 30 days before the result because of publication. She returned in August and found out her form was unsatisfactory. She was rejected because her interpretation was not satisfactory to Mr. Lynd.

1108

18021 9-28-61
Rejected
Lynd-R

Went to the office of the Circuit Clerk to register; she was permitted to complete an application form and required to write and interpret a section of the constitution, however, she was not informed at that time of the results. On October 3, 1961, she called Mr. Lynd who told her she had not passed but refused to state the reason for her failure.

[fol. 1765]
18031 9-28-61
Rejected
Lynd-R

He was accompanied by Rev. Wayne K. Pittman. Mr. Lynd gave him a form and Section 273 to interpret. He filled out the form and Mr. Lynd told them to come back in a few days to learn the results. He returned on October 2, 1961, and a white lady in Mr. Lynd's office said he was in court and she had no idea when he would be in his office. He returned on October 3, 1961, and the same lady told him Mr. Lynd was in court again. He returned on October 5, 1961 with Rev. Pittman and found Mr. Lynd in his office. Lynd told them they had failed and refused to tell them why they failed. He told them they could not reapply for 6 months.

[fol. 1766]

C

The following Negro citizens of Forrest County were not registered to vote because of errors or omissions on their application forms. All events described below occurred in the Circuit Clerk's office in Hattiesburg:

- | | |
|--|---|
| 18106 Feb. 1,
1961
Rejected
Lynd-R. | Mr. Simpson went to the registration office and attempted to register. He was waited on by Mr. Lynd and was given an application form and a section of the constitution to interpret. The section was 112. When he finished the form he gave it to Lynd. When he returned several days later to find out the results, Lynd told him that he had failed to pass the application which he had filled out. He left the election district blank and signed both oaths but left the final line blank. |
| 18130 Feb. 2,
1961
Rejected
Lynd-R. | He received a form and Sec. 178 to interpret. When he had just about finished filling out the form he took out his pocket dictionary to look up some words. The woman clerk saw this and called Mr. Lynd over. Mr. Lynd told him he was disqualified. He said he did not know he could not use anything to fill out the form and asked if he could fill out another form. Mr. Lynd said he could not. He asked when he could reapply and Mr. Lynd said six months. He left the election district blank. |
| 18061 Feb. 4,
1961
Rejected
Lynd-R. | He went to register. Mr. Lynd told him to wait by the door until Sam Hall finished. He waited about 30 minutes and then got a form and Sec. 273 to interpret from a lady clerk. He returned the form to the lady clerk and then left. He was rejected. He signed both the oaths. |

[fol. 1767]

18049 Feb. 4,
1961
Rejected
Woman

He went to register on Saturday Feb. 4, 1961. When he got there Sherman Jackson was filling out a form. The white lady in the office told him to wait outside in the hall. When Sherman Jackson came out, he went in and the lady told him to go back out in the hall until she was ready for him. A few minutes later she called him in, gave him a form and Sec. 165 to interpret. He did not fill out the oaths on the form but asked the lady about them. She said she could not tell him how to fill out the oaths. He was rejected. He left the oath blank and did not sign the final line. Mr. Lynd gave him a form and Sec. 112 to interpret. He filled out the form but was not registered that day. He heard from another Negro, Willie Thigpen, that they had not passed so he did not return to ask Lynd if he had passed. He wrote "34" as his election district and "Library" as his County in the oath. He did not sign the final line. He did not say where his business was carried on in answer to Q. 5 because he did not have any business.

18058 Feb. 4,
1961
Rejected
Lynd-R

He was given a form by Mr. Lynd and Sec. 273 to interpret. He filled out the form and Mr. Lynd told him to return in a few days to find out the results. He returned and Mr. Lynd told him he did not pass and told him he did not have to tell him why he did not pass. He left the oath blank and did not sign the final line.

18101 Mar. 2
1961
Rejected
Lynd-R

18022 Apr. 8,
1961
Rejected
Woman and
Lynd-R

[fol. 1768]

Woman clerk gave Mrs. Burger an application form on April 8, 1961, and Sec. 211 to interpret. She completed the form and the clerk told her she would have to come back to see Mr. Lynd to see if she passed. Mrs. Burger went back the next Tuesday and asked the woman clerk if she had passed. She said Mr. Lynd had seen her form but she did not know the results. Mr. Lynd was not in so Mrs. Burger came back a few days later and Mr. Lynd told her she had not qualified and would not tell her why she had failed. Mrs. Burger did not sign the final line on the application.

18098 Sept. 26,
1961
Rejected
Theron C.
Lynd

He was accompanied by Rev. James C. Chandler. Mr. Lynd gave him a form and Sec. 165 to interpret. He turned the form in to Lynd and Lynd told him to come back in a few days to find out if he passed. He returned a few days later but Lynd was not in his office. He returned on Oct. 6, 1961, accompanied by Rev. Chandler. Mr. Lynd told him he did not qualify. He asked where he had failed on the form and asked if he could correct those questions but Lynd just said he had failed. Rev. Chandler asked when they could try again and Lynd said in 6 months. He filled out both oaths on the form and signed the final line. He put 4th as his election district.

1112

18112 Sept. 29,
1961
Rejected
Lynd-R

Jesse Stegall, accompanied by David Roberson and Robert Lewis, went to the Registrar's office at about 3:35 P.M. Mr. Lynd took them one at a time. Jesse Stegall was given a form and Sec. 178. He completed the form and asked Mr. Lynd when he would know if he was qualified and Lynd said in a few days. Stegall returned with Lewis on Oct. 6, 1961, and Lynd told him he did not qualify, would not tell him what part of the form was failed, and told him he could not reapply for six months. He did not sign the final line on the application he filled.

[fol. 1769]

18073 Sep. 29,
1961
Rejected
Lynd-R

Robert Lewis, Jesse Stegall and David Roberson went to register and Lynd said he could take only one at a time. Stegall went first and Lewis and Roberson waited. Then Lewis went in and filled out a form and interpreted Sec. 121. Lynd told him he could come back in a week to see if he passed. Lewis and Stegall returned the next week and Lynd told them they had failed and he refused to tell them what phase of the form they failed. Lynd told them they could not reapply for 6 months. Lewis did not list his election district or county in the oath and he did not sign the final line on the form.

18022 Oct. 9,
1961
Rejected
Lynd-R

Mr. Lynd said she had been up to register not so long ago and she said it had been six months ago. He then gave her a form and Sec. 124 to interpret and when she completed the form he told her she would have to return to find out the results as he

was busy. She returned several days later and Lynd told her she had not qualified. She did not sign the final line on the application.

18101 Oct. 12,
1961
Rejected
Lynd-R

He was given a form by Mr. Lynd and Sec. 140 to interpret. He filled out the form. When he returned to see if he passed Mr. Lynd told him he did not and when he asked him what he did wrong Mr. Lynd did not reply but walked away. He did not sign the final line on his application.

18142 Oct. 12,
1961
Rejected
Lynd-R

He went to register with David Roberson. He received a form and two cards on which was typed Sec. 273. He filled out the form and interpreted the Section and then Mr. Lynd told them they could come back tomorrow for the results. He returned on Oct. 16, 1961 and Mr. Lynd told him he did not pass and did not tell him why. He left the final line blank.

[fol. 1770]

18105 Oct. 17,
1961
Rejected
Woman
and
Lynd-R

She went to register with another teacher, Eloise Hepson. The lady clerk gave them forms. She got a form and Sec. 100 to interpret. When she finished the lady said she could find out the results in 3 or 4 days. She returned and Mr. Lynd said she failed. She made an error in filling in the election district and left the final line blank.

1114

18054 Oct. 17,
1961
Rejected
Woman
and
Lynd-R

She was given a form by a white lady in the registrar's office and Sec. 233 to interpret. After she completed the form the lady said she would have to return in three or four days to find out if she had passed. She returned at a later date and Mr. Lynd told her she had not passed. She omitted her election district and did not sign the final line on the form.

18136 Apr. 9,
1962
Rejected
Lynd-R

She went to register with Annie Mae James, Rev. L. P. Ponder, and Earline Boyd. Mr. Lynd took them 2 at a time. She filled out a form and interpreted Sec. 89. Mr. Lynd said it was not satisfactory. She was rejected because she gave "Palmer's Crossing" as her election district and left the final line blank.

[fol. 1771]

D

The following Negro citizens of Forrest County were not permitted to register to vote after Theron C. Lynd was enjoined from discriminating against Negroes by the United States Court of Appeals for the Fifth Circuit. They were not told why they were rejected but their forms indicate errors or omissions which Theron C. Lynd used as a basis for rejecting Negroes. These events occurred at Theron C. Lynd's office.

18073 April 18,
1962
Rejected
Lynd-R

Robert Lewis went to register with David Roberson. Mr. Lynd gave him a form and Sec. 160 to interpret. When he finished Mr. Lynd told him he did not pass and refused to tell him why he did not pass. He gave inconsistent answers for his length of residence on this form and a form he filled out in Sept 1961.

18101 April 18,
1962
Rejected
Lynd-R

He went to register with Robert Lewis at about 4:30 P.M. Mr. Lynd was there and gave him a form and Sec. 100 to interpret. When he finished Mr. Lynd told him he did not make it. He asked him what part he fell short on but Mr. Lynd said he could not tell him. He left the election district and final line blank.

18136 April 23,
1962
Rejected
Lynd-R

Mr. Lynd questioned her about how long she had lived in Forrest County, her occupation and if she was employed by anyone. She is self-employed. Then he gave her a form and Sec. 258 to interpret. He rejected her but refused to tell her why. She put "6th" as her election district and left the final line blank.

18031 April 23,
1962
Rejected
Lynd-R

He went to register with Rev. Wayne Pittman at about 9:30 A.M. Mr. Lynd said he had to be in court and told them to come back at about 11:30. They returned about 11:40 and Mr. Lynd said it was almost dinner time and told them to come back after 1:30. They returned at 1:40. Mr. Lynd gave Rev. Chandler a form and Sec. 206 to interpret. After he completed the form Mr. Lynd looked it over and said that their election districts were not numbered, and asked him where he would vote. Rev. Chandler said Library, and then changed his number to Library.

[fol. 1772]

18031 (Con't)

Mr. Lynd then looked at the form again and wrote his name in the registration book, but then he said he found just one little error, though he had thought the form was perfect. Rev. Chandler asked for the form back and changed his name on the form from James C. Chandler to James Cleveland Chandler, but Mr. Lynd said that was not the error and when Rev. Chandler again asked for the form Mr. Lynd said no and refused to tell him what the error was. Then he crossed his name out of the registration book. On his form, Rev. Chandler answered Q. 3 by giving only his year of birth and did not also give his age.

18011 April 24,
1962
Rejected
Lynd-R

He went to register at about 11 A.M. He asked two white ladies in the registrar's office if Mr. Lynd was in. They said he was out and would probably be back at 1 P.M. He waited and finally saw Mr. Lynd and got a form and Sec. 112 to interpret. Lynd told him he did not pass, but did not tell him why. Lynd rejected him because he put "Kellysettlement" as his place of residence, and because he signed both oaths and the final line.

18058 April 28,
1962
Rejected
Lynd-R

He went to register with T. F. Williams. He filled out a form and interpreted Sec. 112. Mr. Lynd said he did not satisfy him but did not say why. He put "Hattiesburg" as his election district and left the final line blank.

18119 April 28,
1963
Rejected
Lynd-R

He filled out a form, interpreted Sec. 226 and was rejected because he did not sign the final line.

18119 May 3, 1962
Rejected
Lynd-R

He filled out a form, interpreted Sec. 224 and was rejected because he did not sign the final line.

18105 May 3, 1962
Rejected
Lynd-R

She went to register with Eloise Hopson and Addie Burger. They filled out forms. She interpreted Sec. 17. Mr. Lynd told her she did not pass. She left the election district and the final line blank.

[fol. 1773]

18105 May 4, 1962
Rejected
Lynd-R

Mattie Chambers was there. She filled out a form and interpreted Sec. 160. Mr. Lynd said she did not pass. She wrote "Hattiesburg" as her election district and left the final line blank.

18119 May 4, 1962
Rejected
Lynd-R

He filled out a form, interpreted Sec. 273 and was rejected because he did not sign the final line.

18031 May 11, 1962
Rejected
Lynd-R

Alphonso Clark went to register to vote. Mr. Lynd asked his name, age, education, address, what grade he taught and then gave him a form and Sec. 124 to interpret. Mr. Lynd rejected him but did not tell him why. He did not sign the final line on the form.

18137 May 11, 1962
Rejected
Woman

He went to register about 10:30 A.M. Mr. Lynd was in court and the lady clerk said he would have to come back later when Lynd was in. He returned at 1:30 P.M. with Thomas Davis. He filled out a form and interpreted Sec. 17. Mr. Lynd said he did not make it and could not tell him why. He put "Hattiesburg" as his election district and left the final line blank.

1118

18101 May 11,
1962
Rejected
Lynd-R

Mr. Lynd gave him a form and Sec. 258 to interpret. When he finished Mr. Lynd said he did not make it but did not tell him why.

18058 May 12,
1962
Rejected
Lynd-R

He went to register with T. F. Williams and Dewey Johnson. He filled out a form and interpreted Sec. 160. Mr. Lynd said he did not qualify but did not say why. He left his election district and county blank and did not sign the final line.

18119 May 12,
1962
Rejected
Lynd-R

He filled out a form and was rejected because he signed all the lines on page 3 and re-copied Section 13 as his interpretation of Section 13.

[fol. 1774]

18077 May 23,
1962
Rejected
Lynd-R

He went with his wife. He received a form of Sec. 160 to interpret. He filled out the form. Mr. Lynd then told him it was not satisfactory but did not tell him why. He was rejected because he did not sign the final line.

18139 May 23
1962
Rejected
Lynd-R

She went with her husband Clarence Magee to register. She received a form and Sec. 224. to interpret. She filled out the form but did not take the oath part because she thought it was to be given orally. When she finished Mr. Lynd told her her form was unsatisfactory. She asked why and he said he was not allowed to tell what was wrong with the form. She was rejected because she did not fill out the oath and sign the final line of the form.

18139 May 24,
1962
Rejected
Lynd-R

She went with her husband to register. She received a form and Sec. 10 to interpret. She filled out the form and put "Walthall" as her election district because she looked on the sheriff's list of poll tax payers required by law to be published on the bulletin board at the court house and found her name listed in the Walthall district. Mr. Lynd rejected her because he discovered, by questioning her husband, that their house was in the Easton district. He did not tell her or her husband that he had discovered this and he did not tell them why he was rejecting them.

18077 May 24,
1962
Rejected
Lynd-R

He went with his wife to register. He received a form and Sec. 17 to interpret. He filled out the form and put "Walthall" as his election district because he had looked on the sheriff's list of poll tax payers and found his name listed in the Walthall district. Lynd questioned him on the exact location of his house and when he discovered that Clarence Magee actually lived across the line in the "Easton" district and not the "Walthall" district, he rejected him. Lynd did not tell him why he was rejecting him.

[fol. 1775]

18077 May 28
1963
Rejected
Lynd-R

Mr. Lynd gave him a form and Sec. 224 to interpret and then rejected him because he put "Walthall" as his election district. Mr. Lynd knew he actually lived in "Eaton" but did not tell him this or why he was rejected.

18077 May 29,
1963
Rejected
Lynd-R

Mr. Lynd gave him a form and Sec. 125 to interpret and then rejected him because he put "Walthall" as his election district. Mr. Lynd knew he actually lived in "Eaton" but did not tell him this or why he was rejecting him.

18134 May 29,
1962
Rejected
Lynd-R

Mr. Lynd gave her a form and Sec. 17 to interpret and then told her she did not qualify but did not tell her why. Mr. Lynd rejected her because she left Q. 5 blank which asks where your business is carried on and left Q. 13 blank which asks by what name you wish to be called if there is more than one person of your same name in the precinct. She gave her occupation in answer to Q. 4 as cook and the name of her employer in answer to Q. 6 as "William Carey College."

18101 June 4,
1962
Rejected
Lynd-R

Mr. Lynd gave him a form and Sec. 224 to interpret. When he finished the form Mr. Lynd said he could not act on the application due to the House Bill that had been passed, that he would have to publish his name in the paper, and that David Roberson could return on July 14, 1962 to get the results. On July 14, Roberson was in school at Cornell so he wrote Mr. Lynd a letter asking the results but received no reply. He was rejected because he put "Hattiesburg, Miss." as his place of residence in answer to Q. 9.

18077 June 6,
1962
Rejected
Lynd-R

He went to register with his wife. Mr. Lynd gave him a form and Sec. 224 to interpret. When he finished Lynd told him he had to have his name published and would have to return later. His form was rejected because he put "Walthall" as his

election district. Lynd knew he actually lived in "Eaton" but did not tell him this.

[fol. 1776]

18139 June 6, 1962
Rejected
Lynd-R

She went to register with her husband. She received a form and Sec. 160 to interpret. She filled out the form and put "Hattiesburg" as her election district because the form said if you live in a city with more than one election district you can put the name of the city. When she finished Mr. Lynd told her her name would be run in the paper and after it appeared the second time she could come back to get the results. Mr. Lynd rejected her for giving "Hattiesburg" as her election district.

18134 June 6, 1962
Rejected
Lynd-R

She went to register with Annie Mae James, Willie Woods and Gladys Woods. Mr. Lynd gave her a form and Sec. 125 to interpret and then told her her name would have to appear in the paper twice before he could tell her if she qualified. He said to come back on July 8th. She went back on July 6th and he said the application was not ready. She went back July 25th and he said she failed. She left questions 5, 6, and 17 blank and Mr. Lynd marked her form "Not Satisfactory".

18133 June 6, 1962
Rejected
Lynd-R

He told a lady in Mr. Lynd's office that he wanted to apply to register. She said to wait a few minutes, that Mr. Lynd was not there. When Mr. Lynd came in he got a form and Sec. 112 to interpret and then Mr. Lynd told him to come back on July 8. He returned July 9 and Lynd told him he did not make it. He left the final line blank.

- 18140 June 15, 1962 He filled out a form and interpreted
Rejected Sec. 273. He was told to come back
Lynd-R because of publication. He was re-
jected because he put "5" as his elec-
tion district. His form is marked
"not complete".

[fol. 1777]

- 18136 June 15, 1962 She filled out a form and interpreted
Rejected Sec. 112. Mr. Lynd told her she should
Lynd-R not come back before July 25 because
he had to publish her name twice. She
returned on July 30 and the lady
clerk told her she failed but said she
could not tell her why. She was re-
jected because she put "Hatties-
burg" as her election district. She is
in the Dixie Pine district outside the
city levels of Hattiesburg.

- 18136 July 30, 1962 Lady clerk gave her a form and when
Rejected she finished the lady clerk said she
Woman could check back in about 28 days.
She was rejected because she put
"Hattiesburg" as her election dis-
trict. She tried to find out her elec-
tion district by looking in old news-
papers and in books and finally
guessed she was with in Dixie Pine
or Irene Chapel so the next time she
put Dixie Pine. No one ever told her
why she was being rejected or what
her precinct was.

[fol. 1778]

E

The following Negro citizens of Forrest County applied to register after Theron C. Lynd was enjoined from discriminating against Negroes. They were not permitted to register because Mr. Lynd was not in his office or they were required to wait in line before receiving an application form because Theron C. Lynd was only permitting two at a time to make applications. The events described below occurred at the Circuit Clerk's office in Forrest County.

- 18058 4/14/62
Refused
Lynd-R
He went to register with Dewey Johnson and T. F. Williams. Mr. Lynd said he could only take two at a time so he left.
- 18101 4/16/62
Refused
Woman
He went to Mr. Lynd's office with Jesse Stegall, Wayne Sutton, and Robert Lewis. All are Negro school teachers. The lady told them Mr. Lynd was handling all registration and he was not in and would not be in that afternoon.
- 18031 4/16/62
Refused
Woman
He went to register with Sherman Jackson. The lady in Mr. Lynd's office said Mr. Lynd was not in. They waited a few minutes and left.
- 18142 4/16/62
Refused
Woman
He went to Mr. Lynd's office with Robert Lewis, Jesse Stegall and David Robertson. All are Negro school teachers. The lady told them Mr. Lynd handles registration and he was not in.
- 18112 4/16/62
Refused
Woman
Jesse Stegall went to register with Robert Lewis, Wayne Sutton and David Robertson, all Negro school teachers. The lady in the office said Mr. Lynd was registering everybody and he would not be back that afternoon.
- [fol. 1779]
- 18073 4/16/62
Refused
Woman
Lady clerk told Robert Lewis, Jesse Stegall, Wayne Sutton and David Robertson that Mr. Lynd was registering everybody and he was not in.
- 18073 4/17/62
Refused
Woman
Robert Lewis went to register with David Robertson at about 11:15 a.m. The lady told them they would have to see Mr. Lynd. She said she could not give them the forms, that Mr. Lynd was handling all registration and that she did not know when he would be in his office.

18073 4/17/62
Refused
Woman

Robert Lewis went to register at about 4:15 p.m. with Wayne Sutton, Jesse Stegal, and Erlexia Lewis. The lady said Mr. Lynd was handling all registration and she did not know when he would be in.

18112 4/17/62
Refused
Woman

Jesse Stegall went to register with Robert Lewis, Erlexia Lewis, and Wayne Sutton about 4:00 p.m. The lady in the office said Mr. Lynd was registering everybody, that she could not give them the forms, that Mr. Lynd was not in and probably would not be back that afternoon.

18142 4/17/62
Refused
Woman

He went to register with Robert Lewis, Erlexia Lewis and Jesse Stegall. The lady in the office said they would have to see Mr. Lynd to register and he was out.

18008 4/17/62
Refused
Woman

Told by a woman clerk that only Lynd had the authority now to register people and that she would have to see him.

[fol. 1780]

18101 4/17/62
Refused
Woman

He went to Mr. Lynd's office with Robert Lewis at about 11:00 a.m. The lady said Mr. Lynd was not in and he was handling all registration. They asked if she could give them the forms to fill out and she said she could not.

18119 4/21/62
Refused
Woman

The lady in Mr. Lynd's office told him he would have to see Mr. Lynd, that she was not allowed to handle any registration and Mr. Lynd was out of town because of a death in his family.

18130 4/23/62
Refused
Lynd-R

In the afternoon, T. F. Williams went to register with Sherman Jackson, Hough Smith, Kenneth Beard, and Sam Hall. When they got there there were two Negro women waiting and two Negro men filling out forms. When they started closing the courthouse for the day, Mr. Lynd came out and said he was going home.

18058 4/23/62
Refused
Lynd-R

He went to register about 4:00 p.m. with Sam Hall, T. F. Williams, Hough Smith. Others were there. Mr. Lynd said to wait. He was taking two at a time. He waited until the office closed and he heard Mr. Lynd say he was going home.

18022 4/23/62
Refused
Lynd-R

Mrs. Burger was accompanied by Eloise Hopson. They went to the office at about 4:05 on April 23. Lynd told them that he had two in the office filling out forms and two waiting and so asked them to come back later. They left but returned at 4:35 and waited in the hall. They were still waiting at 5:00 when the doors were locked and she heard Lynd say that he was finished for the day.

[fol. 1781]

18134 4/24/62
Refused
Massengale-
D.C.

Earline Boyd went to register with Annie Mae James at about 9:30 a.m. Mrs. Massengale said Mr. Lynd was downstairs in court so they decided to wait. Later the phone rang and Mr. Massengale said yes there are two niggers here waiting to register. She then asked their names and repeated them into the phone. She then asked were they up there yesterday and they said yes. She then said yes into the phone and then she told them Mr. Lynd said they would have to come back that afternoon.

18031 4/24/61
Refused
Lynd-R

He returned to register with Rev. Wayne Pittman at about 9 a.m. Mr. Lynd said he had to go to court and to come back that afternoon.

18119 4/25/61
Refused

He went to Mr. Lynd's office about 10 a.m. and looked in the door but since he did not see Mr. Lynd, he left.

18031 4/25/61
Refused
Woman

He went to register at about 9:30 a.m. The lady in Mr. Lynd's office said he was in court and would not be back until that afternoon. He returned at 4:15 p.m. that afternoon with Rev. Wayne Pittman. After Mr. Lynd talked to Rev. Pittman he told Rev. Chandler it was too late to start working on the form because the office closed at 5:00 p.m.

18121 April, 1962
Refused
Woman

She asked the lady in Mr. Lynd's office if she could register. She said Mr. Lynd was not in but he would be in that afternoon.

[fol. 1782]

18121 Last week
April, 1962
Refused
Lynd-R

She went to register in the morning. The lady clerk told her Mr. Lynd was not in, he would be back at 1:00 p.m. When she returned, J. A. Cohen and Annie Pool were inside registering. Annie Mae James, Willie Simpson, Kenneth Beard, Rev. L. P. Ponder, Betty Steppes and Rev. John Barnes were waiting outside to register. Mr. Lynd was only taking two at a time. She waited from 1:00 p.m. until about 3:30 p.m. and then left.

18059 May, 1962
Refused
Woman

She tried to register twice in May but Mr. Lynd was in court both times.

18136 Early May,
1962
Refused
Woman

The lady clerk told her Mr. Lynd was not in his office and only he could allow her to apply. She returned again in May and again Mr. Lynd was out.

18137 5/10/62
Refused
Woman

The lady clerk told him Mr. Lynd would have to register him.

18077 5/22/62
Refused
Woman

Clarence Magee went to register with his wife Carrie Magee. He told the lady clerk they wanted to see Mr. Lynd to register. She said Mr. Lynd was out.

18139 5/22/62
Refused
Woman

Carrie Magee went to register with Clarence Magee. He told the lady clerk they wanted to see Mr. Lynd to register. She said Mr. Lynd was out.

[fol. 1783]

18020 Dates
Unknown
Refused
Cox-R
Lynd-R

He has tried to register under both Cox and Lynd; on one occasion Cox told him that Negroes were not being registered; most of the times he was told that Lynd was not in the office and he should come back.

18094 Date
Unknown
Refused
Cox-R

He went to the office of the Circuit Clerk in order to register; Mr. Cox told him to come back.

[fol. 1784]

Forrest Co. #68

Delayed in Applying

18061 4-14-62
Rejected
Lynd-R

Filled out a form and interpreted section 160 of the constitution. Gave the form to Lynd when he was finished but Lynd told him that it was unsatisfactory. Lynd refused to give the reason that the form was not satisfactory.

1128

18130 4-14-62
Rejected
Woman
Lynd-R

T. F. Williams went to register with Dewey Johnson and Sherman Jackson. The lady said Mr. Lynd did the registering so they waited. In about 25 minutes Mr. Lynd came and said he could not take but 2 at a time so Sherman Jackson left. T. F. Williams got a form and Sec. 10 to interpret. When he finished Lynd said he failed.

18113 4-18-62
Rejected
Lynd-R

Mrs. Stepps attempted to register in April of 1962 accompanied by Bennie Hines, John Henry, and Rev. Brown. When they went into the office they met Mr. Lynd. Lynd asked them all for their name, address, and occupation. After the others told Lynd that they worked for the county driving school buses, Mrs. Stepps told Lynd that she was self-employed. Lynd told them that he could take only two at a time. Mrs. Stepps and Mr. Henry went first and received the forms. When they had completed them, Lynd looked at them and told them that they were unsatisfactory and so they left the office.

18134 4-23-62
Rejected
Massengale
(Mrs.) of
D.C.
Lynd-R

She went to register with Annie Mae Jones. Mrs. Massengale told them they would have to see Mr. Lynd. Mr. Lynd came in and told them he was going to court and they would have to wait 30 or 45 minutes. About 30 minutes later Mr. Lynd came back, gave her a form and Sec. 224 to interpret. When she finished Mr. Lynd told her she did not qualify. She asked him what was wrong but he said he could not tell anybody what was wrong.

[fol. 1785]

18142 4-23-62
Rejected
Lynd-R

He went to register with Jesse Stegall. He received a form and Sec. 124 to interpret. Mr. Lynd took two at a time. Other Negroes had to wait — Sherman Jackson, Eloise Hobson, Arthur James, Jimmie James, Addie Burger and others. When he finished Mr. Lynd told him he did not qualify and could not tell him why. He did not give a correct election district and left the final line blank.

18140 4-24-62
Rejected
Lynd-R

He went with Mrs. Betty Jean Stepps to register to vote at about 11 A.M. There were three or four other Negroes waiting for Mr. Lynd to return from court. They waited till 1:30 P.M. when Mr. Lynd arrived. He said he could only take two at a time so Rev. Ponder waited about one more hour. Then he was given a form and Sec. 17 to interpret. Mr. Lynd then looked over his form and told him he did not qualify but did not tell him what was wrong.

18138 4-23-62
Rejected
Lynd-R

He went to register with his brother Jimmie James. Mr. Lynd told them to wait. Addie Burger was already waiting. Then he and his brother got in and got forms. Other Negroes were still waiting. He got Sec. 72 to interpret. Lynd said he failed. He left the election district and the final line blank.

He returned again in July, filled out a form, waited for publication, returned in August and found he failed and filled out another form.

1130

18119 4-23-62
Rejected
Lynd-R

He saw Mr. Lynd about 9 A.M. and told him he wanted to register. Mr. Lynd told him he was going to court and to come back about 10:30. He returned and Mr. Lynd gave him a form and Sec. 100. After he finished Mr. Lynd told him it was not satisfactory. He was rejected because he did not sign the final line.

[fol. 1786]

18112 4-23-62
Rejected
Lynd-R

Jesse Stegall went to register with Wayne Sutton. Mr. Lynd asked them where they worked and then gave them forms. Jesse Stegall got Sec. 160 to interpret. While they were filling out their forms about 8 Negroes came to register and Mr. Lynd told them they would have to wait, he could only take two at a time. When Jesse Stegall finished Lynd told him he did not qualify, and said he could not tell him why he failed. Lynd rejected him because he put "Hattiesburg" as his election district.

18098 4-23-62
Rejected
Lynd-R

He was accompanied by Rev. James Chandler. They tried to register twice in the morning of April 23, 1962. The first time Mr. Lynd was about to go to court and told them he did not have time. They returned at 11:30 and Mr. Lynd told them to come back after 1:00. They returned at 1:30. Mr. Lynd gave him a form and Sec. 135 to interpret. When he finished Mr. Lynd told him he failed, refused to tell him why, and would not let him have his form back to make corrections.

18059 4-23-62
Rejected
Lynd-R

Annie Mae James went to register with Earline Boyd at about 9:45. The lady told them they would have to see

Mr. Lynd who then came in and told them he had to go to court and would be back in 40 or 45 minutes. He came back at 10:30 and gave her a form and Sec. 10 to interpret. After she finished he said it not satisfactory and when she asked what was wrong he said he could not tell her. She did not fill out the oath because she thought you would do that if you registered.

18135 4-24-62
Rejected
Woman
Lynd-R

[fol. 1787]

He went to register at about 10:30. A lady clerk said he would have to see Mr. Lynd and he would not be back until 1:30 P.M. He returned at 1:30 with Annie Pool. Mr. Lynd asked his name, age, and where he worked. Mr. Lynd gave him a form and Sec. 89 and then told him he did not qualify and said he could not tell why. He was rejected because he did not fill out the oath or sign the final line. Mr. Lynd did not say anything to him about that.

18059 4-24-62
Rejected
Massengale
(Mrs.) of
D. C.
Lynd-R

Annie Mae Jones went to register with Earline Boyd. Mrs. Massengale told them Mr. Lynd was not in and so they waited. Later Mrs. Massengale talked on the phone, and then said Mr. Lynd said to come back at 1:30 P.M. Mrs. James returned at 1:30 and several Negroes were there, two of whom were filling out forms—Annie Pool and J. A. Cohen. Mr. Lynd told her she would have to wait for them to finish. Then he gave her a form and Sec. 233 to interpret at about 3:00 P.M. After she finished he told her it was not satisfactory, she asked why, and he said he could not tell.

1132

18141 4-24-62
Rejected
Woman
Lynd-R

She was accompanied by J. A. Cohen. They were told by a lady in the Registrar's office that Mr. Lynd was the only one registering people and he was in court. They returned after lunch and saw Mr. Lynd. There were four or five other Negroes there. Mr. Lynd gave her a form and a Sec. 273 to interpret and then told her she failed but could not tell her why. She left the oath blank.

18049 5-12-62
Rejected
Lynd-R

He went to register alone. When he got there he saw Sherman Jackson and Willie Thigpen filling out form. He was told to wait to one got finished. He waited and then Mr. Lynd gave him a form and Sec. 125 to interpret and then told him he did not satisfy him.

[fol. 1788]

18037 5-17-62
Rejected
Woman
Lynd-R

Vernon Dahmer and Harold Dahmer went to register. They were told by a woman in Mr. Lynd's office that he was upstairs in court. They went upstairs but the court was empty. They came downstairs as Mr. Lynd was leaving his office and they asked to register to vote. They both filled out forms and Mr. Lynd said they failed and said he could not tell why. Clotee Ware and Rev. J. W. Brown came to register and Mr. Lynd said he had to go to court and they should come back.

18059 6-6-62
Rejected
Lynd-R

She went to register with Earline Boyd, Gladys Woods, and Willie Woods. They all filled out forms at the same time. She interpreted Sec. 165 and was told to wait about 30 days to find the results. She returned

July 9 with Mr. & Mrs. Woods, and the lady clerk said Mr. Lynd was in court. They left their names and returned at about 11:00 a.m. and Mrs. Massengale telephoned and then said Mr. Lynd said you did not pass but could fill out forms anytime he was there. She was rejected because she left the final line blank.

18059 8-6-62
Rejected
Lynd-R

She went to register with Earline Boyd, Gladys Woods and Willie Woods. They returned September 11 to see if they passed. All had failed. Mr. Lynd said they could fill out new forms but only two at a time. They left.

[fol. 1789]

Forrest County #68

Part II

Application Forms

1. Number of Application Forms

The first form in Forrest County is dated November 18, 1960. A hearing on the Government's motion for a preliminary injunction in *U.S. v. Lynd* was held on March 5, 6, and 7, 1962. The Court of Appeals issued an injunction pending appeal which was served on Theron C. Lynd on April 18, 1962. On or before June 21, 1962, two months after a citation for contempt of court was issued against him, Theron C. Lynd stopped helping white persons fill out their forms. The forms by race during these periods are as follows:

a. November 18, 1960—March 5, 1962

	Accepted	Rejected
White	744	9
Negro	0	32

b. March 5, 1962—April 18, 1962

	Accepted	Rejected
White	30	1
Negro	0	6

c. April 18, 1962—June 21, 1962

	Accepted	Rejected
White	37	16
Negro	8	82

[fol. 1790]

d. June 22, 1962—August 10, 1962

	Accepted	Rejected
White	14	25
Negro	1	12

2. Period Which Forms Cover

On August 11, 1960, the United States made a demand for inspection of voting records on Theron C. Lynd. Theron Lynd refused to make these records available to the Special Agents of the Federal Bureau of Investigation and on August 23, 1960, he requested a 90-day extension. On August 26, 1960 he was granted until September 16, 1960, to respond. On September 15, 1960, Theron C. Lynd wrote declining to voluntarily furnish any records and again asked for an extension of time to make a final decision. On January 19, 1961 the Government filed a suit to compel inspection of his records.

The first form is dated November 18, 1960. There was testimony at the hearing in the district court on March 5, 6, and 7, 1962 that white persons were registered without filling out forms as late as November, 1960, and the United States Court of Appeals in the contempt case against Theron C. Lynd "adopted solely as a matter of historical fact as to prior practices" finding of fact 25.13 which states:

[fol. 1791] From February 26, 1959 [the date Theron C. Lynd took office] through April 10, 1962, 1,836 white applicants were registered to vote in Forrest County without filling out application forms or interpreting a section of the Mississippi Constitution.

No Negroes were permitted to register during this period and Negroes were not permitted to fill out application forms until January 30, 1961. (See Part I.)

3. Analysis of Forms

a. Selection of Constitution Sections—

(1) November 18, 1960—March 5, 1962

Section	White	Negro
118	211	0
128	119	0
139	115	2
14	81	0
116	66	0
226	65	1
135	34	1
125	19	1
13	16	0
70	13	0
10	5	0
16	5	0
258	3	0
273	1	6
72	0	1
100	0	1
112	0	3
124	0	1
165	0	5
233	0	2
121	0	2
140	0	1
178	0	3
211	0	2
	<hr/> 753	<hr/> 32

[fol. 1792] As shown in preceding table:

69 percent or 519 of 753 white persons who completed forms during this period received 9 sections of the Constitution which were given to none of the 32 Negroes.

66 percent or 21 of the 32 Negroes who completed forms received 10 sections which were given to none of the 753 white persons.

(2) April 18, 1962—June 21, 1962

Section	White	Negro
10	4	5
13	0	1
17	11	13
24	11	2
72	0	1
89	0	2
100	0	2
107	0	1
112	0	6
118	5	0
124	0	5
125	3	6
135	3	3
139	4	0
160	0	13
165	1	3
206	2	1
224	0	12
226	6	1
233	0	1
243	1	0
258	0	3
272	2	1
273	0	6
	<hr/> 53	<hr/> 88

The Court of Appeals in *U. S. v. Lynd* (contempt case) with respect to this period found: (Finding No. 19.0)

• From April 18, 1962 through June 21, 1962, Theron C. Lynd gave Negroes more difficult sections of the Constitution to interpret than those he gave to white persons.

[fol. 1793] b. Assistance to White Applicants—

The following are Findings of Fact of the Court of Appeals in *U.S. v. Lynd* (contempt), with respect to assistance given to white applicants:

18.0 Between April 18, 1962 and June 21, 1962, Theron C. Lynd required Negro applicants to complete their application forms without assistance and rejected their applications if they contained errors or omissions. During the same period, Theron C. Lynd assisted white applicants in correctly and completely filling out their application forms including filling in their election district and signing the final line.

22.0 Between January 1, 1962 and March 5, 1962 Theron C. Lynd gave easy sections of the Constitution to white applicants to interpret, and from January 1, 1962 to April 10, 1962 he advised white applicants of omissions on their application forms and assisted them in completing their application forms to his satisfaction.

25.0 • During Theron Lynd's term of office as Registrar of Voters of Forrest County, Mississippi, until the date of the preliminary hearing on March 5, 1962, Lynd registered white applicants if they could read and write, and if they met the qualifications of citizenship, age, residence and nonconviction of a crime. The application form was not used as a test for any white applicants during that period.

• Finding 25.0 was adopted by the Court in the contempt case solely as a matter of historical fact.

[fol. 1794]

25.1 * During Lynd's term of office, prior to March 5, 1962, Lynd registered white applicants without requiring that they fill out an application form, or permitted them to have their forms filled in for them, and did not require that white applicants interpret a section of the Mississippi Constitution.

c. Grading of Applications:—

The following are Findings of Fact of the Court of Appeals in *U.S. v. Lynd* (contempt) with respect to the grading of white applications:

- 14.0 Between April 18, 1962, and June 26, 1962, Theron C. Lynd rejected, on account of their race, Negro applicants with near perfect application forms. During the same period, white applicants were accepted whose application forms did not contain information required by Lynd of Negroes to establish that the applicant was qualified to vote.
- 15.0 Between April 18, 1962, and June 26, 1962, Theron C. Lynd rejected Negro applicants, on account of race, for formal, technical, and inconsequential errors or omissions on their application forms.
- 16.0 Between April 18 and June 26, 1962, Theron C. Lynd scrutinized the applications of Negroes to find some grounds for rejecting them. During the same period, Theron C. Lynd did not similarly scrutinize the applications of white applicants and accepted their applications even though they contained errors or inconsistencies similar to those which formed the grounds for the rejection of Negroes.

* Finding 25.1 was adopted by the Court in the contempt case solely as a matter of historical fact.

[fol. 1795] 17.0 Between April 18, 1962 and June 26, 1962, Theron C. Lynd discriminated against Negroes in his grading of interpretations of sections of the Mississippi Constitution.

25.2 * During Lynd's term of office up to March 5, 1962, the Constitutional Interpretation Test was not graded for white applicants.

[fol. 1796] Part III

The names in this part have a number which is the number given in answers to interrogatories Nos. 23 and 24 of the State of Mississippi, which gives background information as to each person. Specific experiences are detailed in Part I, above, by number. If the name bears no number, judgment of deprivation was made on the basis of the application form.

a. Negroes Denied the Right to Vote Because of the Interpretation Test—

Number	Name	Date
18119	Willie Thigpen	5/12/62
18119	Willie Thigpen	5/29/62
18141	Annie Pool	6/21/62
18121	Mattie Lee Townsend	5/7/62
	Willie C. Woods	5/29/62
	Benjamin Patterson	1/30/61
18065	Myles Jones	1/31/61
18119	Willie Thigpen	2/1/61
18049	Sam Hall	2/4/61
	George D. Johnson	2/4/61
18031	James C. Chandler	9/28/61
18119	Willie Thigpen	10/16/61

b. Negroes Denied Right to Vote Because of Perfect Form Requirement—

(Findings of Court of Appeal, *U.S. v. Lynd* (contempt) with respect to the following forms)

* Finding 25.2 was adopted by the Court in the contempt case solely as a matter of historical fact.

18.14 The application forms of the following Negroes show that each applicant is qualified to register to vote in Forrest County, Mississippi. They show that each applicant possesses the qualifications of citizenship, age, and residence in the State and election district. They show that these applicants have not been convicted of any disqualifying crimes and that each applicant took the oath as required by Mississippi law. These applications reflect that each applicant wrote and gave a reasonable interpretation of a section of the Mississippi Constitution, and demonstrated an understanding of the duties and obligations of citizenship under a constitutional form of government. The application forms of these Negro applicants had error or omissions in the election district, in the applicable oath, or in signing the final line.

Number	Name	Date
18073	Robert Lewis	4/18/62
18101	David Roberson	4/18/62
18134	Earline Boyd	4/23/62
18136	Victoria Gray	4/23/62
18059	Annie Mae James	4/23/62
18138	Arthur James	4/23/62
18069	George Kelly	4/23/62
18142	Wayne Sutton	4/23/62
18119	Willie Thigpen	4/23/62
18006	John Barnes	4/24/62
18011	Ken Beard	4/24/62
18135	James Cohen	4/24/62
18059	Annie Mae James	4/24/62
18140	Leonard Ponder	4/24/62
18141	Annie Pool	4/24/62
18113	Bettie Jean Stepps	4/24/62
18058	Sherman Jackson	4/28/62
18119	Willie Thigpen	4/28/62
18130	Theodor Williams	4/28/62
18105	Iva Sandifer	5/3/62
18119	Willie Thigpen	5/3/62
	Andrew Wilson	5/3/62
18105	Iva Sandifer	5/4/62
18119	Willie Thigpen	5/4/62
18141	Annie Pool	5/7/62
18132	Constance Baker	5/11/62
18006	John Barnes	5/11/62
18032	Alfonso Clark	5/11/62
	Thomas Davis	5/11/62
18137	George Harper	5/11/62
18101	David Roberson	5/11/62

[fol. 1798]

Number	Name	Date
18049	Rev. Sam Hall	5/12/62
18058	Sherman Jackson	5/12/62
18061	Rev. Dewey Johnson	5/12/62
18105	Iva Sandifer	5/19/62
18139	Carrie Magee	5/23/62
18077	Clarence Magee	5/23/62
18139	Carrie Magee	5/24/62
18077	Clarence Magee	5/24/62
18077	Clarence Magee	5/28/62
18077	Clarence Magee	5/29/62
18133	Nehemiah Black	6/6/62
18059	Annie James	6/6/62
18077	Clarence Magee	6/6/62
	Ollie Doss	6/15/62
18136	Victoria Gray	6/15/62
	Catherine Jackson	6/15/62
18140	Leonard Ponder	6/15/62
	Gloria Rivins	6/21/62

The following Negroes were not covered by the period included in the Court of Appeal's finding; all were deprived of the right to vote because of the perfect form requirement; each had errors or omissions in election district, in the applicable oath or in signing the final line:

Number	Name	Date
	Eddie L. Thornton	1/30/61
18106	Willie Simpson C.	2/1/61
18058	Sherman C. Jackson, Sr.	2/4/61
18101	David E. Roberson	3/2/61
18022	Addie N. Burger	4/8/71
18106	Willie C. Simpson	9/27/61
18098	Wayne K. Pittman	9/28/61
18073	Robert L. Lewis	9/29/61
18112	Jesse Stegall, Sr.	9/29/61
18022	Addie N. Burger	10/9/61
18084	Cornell McCree	10/10/61
18101	David E. Roberson	10/12/61
18142	Wayne Sutton	10/12/61
18054	Eloise T. Hopson	10/17/61
18105	Iva E. Sandifer	10/17/61
	George D. Johnson	2/24/62

Part II

Application Forms

1 & 2. Number of Application Forms

Period includes forms from 4/8/55 to 7/19/62.

White

Accepted	748
Rejected	0

Negro

Accepted	2
Rejected	0

3. Analysis of Forms

a. Selection of Constitutional Sections

Section	Number of Applicants
9	1
14	6
21	1
22	7
30	701
No Section (or interpretation)	34

b. Assistance to White Applicants

(1) The answers to Questions 18, 19 and 20 on the applications of the following white registrants were written by one person.

Date of Application	Name
6-30-59	Wanda H. Breland
7-2-59	Thomas J. Brewer
7-1-59	Joe E. Cowart
2-19-60	Robert C. Dobson
3-24-60	Ronald L. Eubanks
6-27-59	Claude C. Gibson
6-20-59	James K. Henderson

[fol. 1800]

Date of Application

Name

4-16-59

Shirley Hamilton

3-7-59

Mrs. J. E. Miller

6-23-59

I. V. Kittrell

4-1-60

J. D. McLeod

1-30-59

Mary Lou McCoy

7-1-59

Ora Mae McDonald

7-2-59

Jessie E. Thornton

5-19-59

Wayne Organ

1-31-59

Elizabeth W. Smith

4-11-59

Lenora E. Stringfellow

8-14-58

Myrtie R. Turner

(2) The answers to questions 18, 19 and 20 on the applications of the following white registrants were written by one person, but not the same person who wrote the answers on the applications of the persons listed in (1) above.

Date of Application

Name

6-8-56

Ethel Clark

4-23-59

James Crocker

2-6-59

Roland D. Daughdrill

6-22-59

Nelda Fairley

8-12-58

Graham Hillman

2-11-60

Myrtle Kittrell

4-7-58

Rosie Lee Kittrell

1-8-59

Josh Miller

2-7-59

Hugh A. McLinnis

7-3-56

Edward Pridgen

2-12-59

John Robert Pipkins

3-28-58

N. Ray Turner

(3) The following groups of registrants had verbatim answers to both questions 19 and 20.

(a) Group I

The applicants listed below interpreted Section 30 by stating:

[fol. 1801] "No one can be put in prison for owing someone a debt."

Each one of these answered Question 20 with the following statement:

"Pay all taxes Vote in all elections Defend your own country"

Date of Application

Name

9-1-56

Bobby W. Avera

11-29-56

William Byrd

5-24-57

Hilman Hilton

10-18-56

Jefferson D. Merritt

12-29-56

Robert C. Seeley

10-12-56

Billy G. Robertson

(b) Group II

The applicants listed below interpreted Section 30 as follows:

"No one can be put in prison for owing some one a bill".

Their answer to Question 20 was:

"Obey all law" (or "laws").

Date of Application

Name

1-24-58

Mrs. Arlin R. Bush

3-7-59

J. L. Box

7-10-58

Clancy Mae Brownlee

2-18-58

James T. Byrd

1-27-58

Mrs. Artis G. Clark

7-14-58

Billy J. Daughdrill

1-31-58

Madolyne Druitt

1-21-58

Ruth Grimes

1-27-58

Gordon M. Garretson

1-23-58

Marian M. Hicks

4-16-59

Shirley Hamilton

1-9-59

C. W. Harrison

2-25-59

Murdick R. Hillman

1-30-58

Emma R. Henderson

[fol. 1802]

1-28-58

Allison Merritt

1-27-59

Marian E. Pierce

◊ Date of Application

Name

1-30-58

Mrs. Frances Rickey

1-31-58

E. C. Robertson

2-20-58

Chas. R. Robertson

1-12-59

Earl Vanderford

(c) Group III

The applicants listed below interpreted Section 30 with the identical sentence used by those in Group II ("No one can be put in prison for owing someone a bill").

They answered Question 20 with the following statement (in a few forms the order is reversed):

"Obey all laws. Vote in all elections".

Date of Application

Name

5-30-59

Robert C. Miller

2-7-59

Patricia A. Jenkins

2-7-58

Roy Hame

2-4-59

Thomas S. Henderson

6-9-59

Mrs. Hosey Henderson

9-20-58

Charles O. Freeman

3-24-60

Ronald L. Eubanks

6-7-59

Mrs. James Ezell

9-26-57

Marian V. Eubanks

10-5-57

Sally E. Eubanks

3-23-59

James L. Crocker

3-24-59

Mrs. Mildred B. Churchwell

10-25-58

McRae Clark

1-22-59

R. D. Cooley

2-7-58

James Beech

4-24-58

Nancy V. Beard

7-7-58

Johnny A. Brewer

1-23-59

Mrs. Bobby S. Brewer

4-9-59

Mrs. J. L. Busby

5-6-57

Mrs. Wilena S. Williams

1-26-59

J. T. Watson

11-13-57

Leonard Roberts

2-12-59

John R. Pipkins

6-20-58

C. E. McDonald

2-7-59

Hugh A. McInnis

[fol. 1803]

(d) Group IV

The applicants listed below interpreted Section 30 with the identical language used by the applicants in Groups II and IV above ("No one can be put in prison for owing someone a bill").

Their answer to Question 20 was:

"Obey all laws, pay all taxes".

Date of Application

Name

6-9-59	Carol Breland
4-15-59	Horace R. Dixon
3-21-59	Catherine Harrison
1-17-59	Mrs. W. B. Hillman
9-20-58	Lewis Mc Innis
5-7-59	B. P. Pierce
2-14-59	Ethan G. Roberts
1-29-59	Margaret A. Smith
11-12-57	David C. Walley

(e) Group V

The applicants in this group interpreted Section 30 as follows:

"No one can be imprisoned for owing a bill".

Their answer to Question 20 was identical to the answer to Question 20 of those listed in Group III ("Obey all laws. Vote in all elections").

Date of Application

Name

6-9-59	Edgar C. Latham
6-15-59	S. C. Killen
6-22-59	Gary Hillman
6-25-59	Elaine Hillman
6-15-59	William T. Stewart
6-11-59	Faye J. Smith

[fol. 1804]

(f) Group VI

The interpretation of Section 30 by the following applicants is identical to the interpretation given by the persons listed in Group IV ("No one can be put in prison for owing someone a bill").

Their answer to Question 20 was:

"Obey all laws. Pay all taxes. Vote in all elections".

(Sometimes the order was reversed.)

Date of Application

Name

6-9-59	Max Brewer
10-2-58	Guy G. Byrd
10-16-57	Birl E. Clark
8-2-58	J. L. Freeman
10-25-57	Ernest Hudson
11-4-57	Donald R. Sprague

(g) Group VII

The interpretation of Section 30 of the following applicants is identical to the interpretation given by the applicants listed in Groups IV and VI ("No one can be put in prison for owning someone a bill").

Their answer to Question 20 is identical to the answer given by the applicants listed in Groups III and V ("Obey all laws, vote in all elections").

Date of Application

Name

2-2-59	Howard E. Thornton
2-6-59	Roland D. Doughdrill

[fol. 1805]

(h) Group VIII

The following applicants interpreted Section 30 as follows:

"No one can be put in jail for owing someone a bill".

Their answer to Question 20 was:

"Vote in all elections, pay all taxes".

Sometimes the order of this statement was reversed.

Date of Application

Name

6-6-57	A. T. Cowart
2-23-57	Thuman Clark
9-26-57	Mayo Ball

(i) Group IX

The following applicants interpreted Section 30 as follows:

"No one can be imprisoned for owing a bill".

This interpretation is identical to the interpretation used by the applicants listed in Group V.

Their answer to Question 20 was:

"Obey all laws, pay all taxes".

This answer is identical to the answer of the persons listed in Group IV.

Date of Application

Name

8-27-58

Aubrey L. Freeman

6-22-59

Margaret E. Mcleod

6-29-59

Mrs. C. E. McNair

[fol. 1806]

(j) Group X

The following applicants interpreted Section 30 as follows:

"No one can be put in prison for owing someone a bill".

This interpretation is identical to that given by the applicants listed in Groups IV, VI and VII.

Their answer to Question 20 was:

"Vote in all elections. Pay all taxes".

This answer is identical to the answer given by the applicants listed in Group VIII.

Date of Application

Name

2-5-57

Mrs. E. S. Holland

7-26-59

Jacquelin Flynn

(4) Assistance in Question 19

Groups of Identical Interpretations

(a) 10 applicants interpreted Section 30 by stating "No one can be put in prison for owing someone a debt". This interpretation is identical to the interpretation given by the applicants listed in 3(a) above (Group I).

(b) 40 applicants interpreted Section 30 by stating:

"No one can be put in prison for owing someone a bill".

This interpretation is identical to the interpretation given by the applicants listed above in 3(b) (Group II), 3(c) (Group III), 3(d) (Group IV), 3(f) (Group VI), 3(g) (Group VII) and 3(j) (Group X).

[fol. 1807] (c) 14 applicants interpreted Section 30 by stating:

"No one can be put in jail for owing someone a bill".

This interpretation is identical to the interpretation given by the applicants listed above in 3(h) (Group VIII).

(d) An additional 30 applicants interpreted Section 30 by stating:

"No one can be imprisoned for owing a bill".

This interpretation is identical to the interpretation given by the applicants listed above in 3(e) (Group V) and 3(i) (Group IX).

(5) Assistance to Question 20

Groups of Identical Answers to Question 20

(a) 20 applicants answered Question 20 by stating:

"Obey all law" (or laws)".

This answer is identical to the answer given by the applicants listed above in 3(b) (Group II).

(b) 40 applicants answered Question 20 by stating:

"Obey all laws. Vote in all elections".

This answer is identical to the answer given by the applicants listed above in 3(c) (Group III), 3(e), (Group V) and 3(g) (Group VII).

[fol. 1808] (c) 96 applicants answered Question 20 by stating:

"Obey all laws. Pay all taxes".

This answer is identical to the answer given by the applicants listed above in 3(i) (Group IX) and 3(d) (Group IV).

(d) 10 applicants answered Question 20 by stating:

"Obey all Laws, pay all taxes, vote in all elections".

This answer is identical to the answer given by the applicants listed above in 3(f) (Group VI).

(e) 10 applicants answered Question 20 with this statement:

"To defend the country in time of war. To pay all taxes required. To obey and help enforce all the laws. To pay all taxes legally required and vote in any and all elections".

(f) At least 65 forms have "XX" marks near the lines on which the applicant must sign as to the oath and the final applicant's signature line.

(6) Grading

(a) 34 registrants had no interpretation in answer to Question 19 or lack an answer to Question 20.

[fol. 1809] Jefferson Davis County #70

Part I

A

The following Negro citizens of Jefferson Davis County who previously had been registered to vote in that County were required (by Circuit Clerk James Daniel) to fill out application forms and interpret sections of the Mississippi Constitution when they attempted to re-register following the 1956 re-registration. All events took place at the office of the Circuit Clerk, Prentiss, Mississippi.

33080 3/63

Went to registration office with husband; Amos L. Laird, to re-register. Husband told Daniel he wanted to register so he could be a citizen. Daniel said they don't have to register and vote to be a citizen, and that he did not have time, he had many letters to get out. Mrs. Laird said Daniel should let them try. He gave her written application form to fill out, gave Mr. Laird oral test. On 4/11/63 they had not yet received results of this test.

33153 2/5/63
Rejected

Went to Daniel's office to attempt to re-register and was given a form to fill out. She did not complete the form. On 3/7/63 Daniel advised that she failed.

33029 1/30/63
Rejected

Went to re-register at Daniel's office and was required to fill out an application form. Daniel refused to register her.

33102 1/21/63

Went to re-register at Daniel's office and filled out application form. On 2/14/63 Daniel advised that she failed.

[fol. 1810]

33080 1/11/63
) Rejected

Went to Daniel's office with husband to attempt to re-register. Daniel gave her a written form to complete which she completed. On 2/7/63, Daniel advised her that she failed. Did not appeal because Daniel said to husband if he appealed he would go to the law with it, and because another Negro had advised husband that he should stay away from B. C. Clark, one of the commissioners.

- 33050 12/60
Rejected Went to attempt to re-register at Daniel's office and was given a form to complete. He did this and then Daniel said he had not passed.
- 33050 1960, summer
Rejected Went to re-register at Daniel's office and was given the form to complete. Again, after his completing the form, Daniel said he did not pass.
- 33050 Early
1960
Rejected Went to re-register at Daniel's office and was given a form to fill out. After he completed the form and gave it back to Daniel, Daniel advised that he had not passed. He then left.
- 33111 1959 or
1960
Rejected Went to registration office to re-register. Received form. Daniel said her answers did not come up to the specifications.
- 33104 About
1959
Rejected Went with Oliver Blanchard to registration office to re-register. They asked if they still had to fill out forms. Daniel said yes. Blanchard said he had been registered before. Daniel said that did not count, he would have to fill out a form. They left.
- 33040 1959
Rejected Went to registration office to re-register. Received application form. Daniel looked at form, said she failed.
- [fol. 1811]
- 33000 1958
Rejected Went to Daniel's office to attempt to re-register and was given a form to fill out. He filled it out, and was then given a section to read and interpret. Daniel advised him at that time that he did not pass.
- 33104 About
1958
Rejected Went alone to registration office, told Daniel he wanted to register. Daniel gave him a form. Moore said, "I'm afraid I can't fill this out." Daniel told him that was his business.

33091 1958 Went to registration office to re-register. Received application form. Could not complete the form. He left.

33091 1958 Rejected Went to registration office to re-register. Received application form. Could not complete it. Filled out about half and left. Since he was working, he did not return to finish it.

33073 1958 Passed Went to re-register and was given a form to fill out and an oral test. He passed and was allowed to register.

33143 2/28/58 Accepted After three unsuccessful attempts to re-register within one or two months, went to registration office with Mrs. Mabel Armstrong. They are both schoolteachers. Completed application form. Daniel permitted her to re-register.

33003 2/28/58 Accepted After three unsuccessful attempts to re-register, Mrs. Armstrong went to the registration office with Mrs. Mamie L. Uston. They are both schoolteachers. She filled out a form, and Daniel allowed her to re-register to vote.

[fol. 1812]

33064 2/20/58 Rejected Went with husband, Gaston Holloway, to re-register. Was required to complete written form, and to copy and interpret in writing Section 32 of the Constitution. Daniel looked at completed form and said she didn't quite make it. Form was introduced in evidence in *Darby v. Daniel*.

1154

33065 2/20/58
Rejected

Went to registration office with wife, Genora Holloway, to re-register. Received form to complete, with Section 123 of Constitution to copy and interpret. Daniel looked at completed form and said he did not pass.

Applicant said he had been voting for 25 years and was sorry that they would have to come back again. Later, form was introduced into evidence in *Darby v. Daniel*.

33003 2/58
Rejected

About a week after her second attempt to re-register, she went to the office of the Circuit Clerk with Mrs. Mamie L. Uston. Filled out a new application form. Daniel said they could come back.

33143 2/58
Rejected

Went to registration office to re-register with Mrs. Mabel Armstrong, about a week after their previous attempt. Required to fill out application form. Daniel told her she did not pass, but said they could come back.

33143 Jan. or
Feb. 1958
Rejected

Went to registration office to re-register with Mrs. Mabel Armstrong, about a week after their previous attempt. Required to fill out application form. Daniel told her she did not pass.

[fol. 1813]

33003 2/58
Rejected

Attempted to re-register at office of the Circuit Clerk with Mrs. Mamie L. Uston, about a week after her first attempt to re-register. Filled out an application form. Daniel told her she did not pass.

33143 2/58
Rejected

Went to registration office with Mrs. Mabel Armstrong to re-register. Filled out application form. Daniel told her she did not pass.

33003 Jan. or
Feb. 1958
Rejected

Attempted to re-register at office of the Circuit Clerk with Mrs. Mamie L. Uston. Filled out application form. Daniel told her she did not pass.

33132 Feb. 1958
Rejected

Went alone to Daniel's office to re-register. Daniel gave him an application form and a section of the State Constitution to copy on the form from a book. He gave the form to Daniel, who did not say anything. Applicant assumed Daniel's silence meant he had failed.

33023 1/31/58
Rejected

Went to Daniel's office to attempt to re-register along with his wife. They were given forms to complete, and a section of the Constitution to read and interpret. Being unable to comply, he left the office.

33086 About
1957
Rejected

Went to registration office with husband. Each received a section of the Constitution to interpret in writing. Daniel put their completed papers on the desk and continued to talk to a white man. They waited for about five minutes and since Daniel did not say anything they left.

33131 1957
Rejected

Went to Daniel's office to re-register with his wife and were given forms to fill out. They made no attempt to fill out the form.

[fol. 1814]

33015 12/57
Rejected

Went to registration office with Dudley Hathorne to re-register. Received application form and a section of the Constitution to copy and interpret in writing. Was not permitted to register.

1156

33056 12/57
Rejected

Went to registration office with John C. Burns, another Negro, to re-register. Received application form and Section 146 of the State Constitution to copy and interpret in writing. Daniel said application was not correct. Neither he nor the other Negro were permitted to register.

33124 12/57
Rejected

Went alone to Daniel's office to re-register and was handed the form and told by Daniel to write down part of the Constitution. Since he couldn't do that, he returned the form and left.

33020 4/22/57
Rejected

Attempted to re-register. required to fill out a form and interpret Section 123 of the Constitution, but was not registered.

33083 Jan.
1957
Rejected

Went to registration office to re-register. Required to complete written application form, and write an interpretation of a section of the Mississippi Constitution. Daniel said he didn't make it.

33132 Jan. or
Feb. 1957
Rejected

Went alone to registration office to re-register. Filled out first page of application form, but did not know how to fill out second page. Left it blank. Daniel did not say anything about the form, nor did he say whether Ross had passed. Applicant assumed that Daniel's silence meant he had failed. During this attempt to re-register, applicant said he had always been a citizen and that he hated to lose his citizenship. Daniel made no reply.

[fol. 1815]

- 33096 1956 or
1957
Rejected Went to registration office, told Daniel he wanted to re-register. Received application form, filled it out as well as he could. Daniel said he didn't quite make it.
- ~~33054~~ 1956
or after
Accepted Went with wife to registration office. Received application form, and section of the Constitution dealing with forgery to copy and interpret. Wife thinks she received another section.
- 33041 1956-1957?
Rejected Went with wife to re-register at Daniel's office and was given the form to complete. After he filled out the form, he gave it to Daniel who said he failed.
- 33033 About 1956
Rejected Went to registration office. Received form. Gave completed form to Daniel, who said he did not pass.
- 33056 1956
Rejected Went to registration office to re-register. Required to complete written application form and to copy and interpret in writing section of the Mississippi Constitution. Was told he did not pass.
- 33085 1956
Rejected Went to Daniel's office to attempt to re-register and was given a form to fill out. As he could not answer the questions, he left the office.
- 33096 About
1956
Rejected Went to registration office to re-register. Received application form. Filled it out as well as he could. Daniel told him he didn't quite make it.
- 33111 1956
Rejected Went to registration office to re-register. Received application form. Daniel looked at completed form, said she did not pass.

1158

33118 1956
Rejected

Went to registration office to re-register. Received application form and section of Constitution to copy and interpret in writing. Completed form, Daniel said she did not pass.

[fol. 1816]

33118 1956
Rejected

On same day as previous attempt, went to registration office, filled out application form, asked if she passed, Daniel said no. She left.

33131 1956
Rejected

Went with wife to attempt to re-register and were given forms to complete. They filled out forms and handed them to Daniel and asked if they had passed. Daniel said no as they did not answer the questions right.

33142 1956
Rejected

Went with wife to attempt to re-register and was given forms by Daniel to complete as well as to write a section of the Constitution and interpret it. He did not fill out the form.

33155 1956
Rejected

Went to registration office to re-register. Daniel ignored her until she went to him and asked to register. Received form, which she filled out. Daniel said she missed a question, but refused to say which one.

33070 Fall, 1956
Rejected

Went alone to registration office to re-register. Received application form and Section 17 of the Mississippi Constitution to copy and interpret in writing. About 8 Negroes and 8-10 white people were in the office. There was space at tall desks for two Negroes and two whites to stand working on their forms at once. Waited in the colored line for 15 or 20 minutes, studying the Constitution. Worked on answer about 15

more minutes, then gave Daniel forms. Daniel looked at them, said it wasn't quite right.

33065 Sept. or
Oct. 1956
Rejected

Went to re-register with his wife, Genora Holloway, and John Barnes. Was required to complete a written application form. Daniel looked at completed form and said he did not pass.

[fol. 1817]

33011 Sept. or
Oct. 1956
Rejected

Went to registration office to re-register with Gaston and Genora Holloway, also Negroes. Required to complete written application form, with section of Constitution to copy and interpret. Daniel received with form section of Constitution to copy and interpret. Daniel received form, said he didn't quite make it.

33064 Sept. or
Oct. 1956
Rejected

Went to re-register with her husband, Gaston Holloway, and John Barnes. Was required to complete a written application form. Daniel looked at completed form and said she didn't quite make it.

33015 July or
Aug. 1956
Rejected

Two or three weeks after previous attempt to re-register, went to registration office, received application form. Completed form and gave it to Daniel, who told him he did not pass.

33015 July or
Aug. 1956
Rejected

Went to registration office to re-register, Daniel gave him application form. Completed form, and gave it to Daniel, who said applicant did not pass.

41160

33005 July 1956
Rejected

Went alone to registration office, which was crowded. Stood at tall desk near door. Received application form and section of State Constitution to copy and interpret in writing. Daniel took completed form, went in to back room. After 15 or 20 minutes Daniel returned and said Barnes didn't quite make it but could come back.

33065 7/5/56
Rejected

Went to registration office to re-register with Genora Holloway, his wife. Mrs. Matheson, a white woman was in the office at the same time. She sat at a low table, apparently filling out an application form. The Holloways were required to stand at a tall table and fill out forms. Mrs. Holloway testified that Daniel talked to Mrs. Matheson while she was working on her form. Daniel read the completed forms and told Mr. and Mrs. Holloway they didn't pass.

[fol. 1818]

33064 7/5/56
Rejected

Went to registration office to re-register with Gaston Holloway, her husband. Were required to complete application forms, and copy and interpret a section of the Constitution. Daniel read completed forms, said "You didn't quite make it." When Mrs. Holloway asked to see her form again, Daniel refused.

Mrs. Matheson, a white woman was sitting at a table apparently filling out an application form. The Holloways had to stand at a tall table. Mrs. Holloway testified that Daniel talked to Mrs. Matheson while she worked on form.

33020 6/24/56
Rejected

Attempted to re-register. Was required to fill out form and was not registered.

33056 4/11/56
Rejected

Went alone to registration office to re-register. Required to fill out form and copy and write an interpretation of Section 61 of Mississippi Constitution. Daniel said his interpretation was not right, and refused to register him.

33011 Apr. 1956

Went with his wife to registration office to re-register. Said they wanted to get their names back on the books. Required to complete application form, copy and interpret in writing section of Constitution. Daniel looked at completed form and said he didn't quite pass. His wife passed.

33124 Dec. 1956
Rejected

Went to re-register and Daniel handed him a form which he filled out about half way. When Daniel said he had to put down a section from the Constitution, he handed the form back and left.

[fol. 1819]

33009 4/6/56
Accepted

Went to registration office with husband, John F. Barnes, to re-register. Received application form, and probably Section 209 of the Constitution, relating to duties of the State to the blind; providing education for the blind. Mr. Daniel took a copy of this Section, typewritten on a slip of paper, out of a drawer which contained many forms. It appeared to her that he had looked at several slips before deciding which provisions he would give to her and her husband. After they completed forms, Daniel looked at them and said that Mrs. Barnes passed, her husband did not.

33027 4/6/56
Rejected

Went to registration office with his wife to re-register. Was not asked if he had previously registered. Received application form and Section 21 of the Constitution to copy and interpret in writing. (Wife received Section 198). Daniel was not in office. Gave completed form to the white woman who was there. Later wife returned and was told neither of them had passed.

33026 4/6/56
Rejected

Went with husband to registration office to re-register. A woman, believed to be Mrs. Daniel, the registrar's wife, gave them application forms and gave her Section 198 and her husband Section 21 to interpret. When forms were completed, told to return later to determine results. Later she returned. Daniel said neither one had passed.

33083 3/31/56
Rejected

Went to registration office with Excell Richmond, another Negro. Required to complete written application form. Daniel said he did not pass.

[fol. 1820]

33126 About
3/13/56
Accepted

Went to registration office to re-register. Received written application form and Section 32 of the Mississippi Constitution to copy and interpret in writing. Was permitted to register.

33112 Summer
1956
Rejected

Went to registration office to re-register. Received application form and section of State Constitution. Daniel looked at his form and said he didn't pass. Applicant asked why he failed, Daniel would not say. Applicant asked for another blank, Daniel said the law did not provide for that, but he could come back some other time.

- 33132 Jan. or Feb. 1956
Rejected
Went alone to registration office to re-register. Filled out first page of application form but since he did not know how to fill out second page, he left that blank. Daniel said the first page looked all right, and said nothing about the second. Daniel did not say whether Ross had passed. Ross assumed Daniel's silence meant he had failed.
- 33162 Late 1950's
Rejected
Has been up several times to re-register. Each time Daniel gave her a form to complete, and each time she gave it back incomplete.
- 33163 Late 1950's
Rejected
Has attempted to re-register when he pays poll tax but has not been permitted to register as he does not interpret the section which Daniel gives to him to Daniel's satisfaction.
- 33041 1950's
Rejected
Went alone to attempt to re-register at Daniel's office and was given a form to complete. After completing the form he gave it to Daniel who said it was not satisfactory.

[fol. 1821] Jefferson Davis County #70

B

The following Negro citizens of Jefferson Davis County who had been previously registered to vote in that county were required by Circuit Clerk James Daniel to read and interpret a section of the Mississippi Constitution when they attempted to re-register in that county following the 1956 re-registration. All of the following events took place at the office of the Circuit Clerk, Prentiss, Mississippi.

- 33092 1950's
Rejected
Daniel
Went to Daniel's office to attempt to re-register and was given a section to read and interpret. Daniel was not satisfied with the interpretation.
not satisfied with the interpretation.

- 33155 1957
Year not
certain
Rejected Went to registration office to re-register. Daniel gave her section of Constitution and told her to read it aloud and interpret it orally. After she did, Daniel said interpretation was not full enough.
- 33060 About 1957
Rejected Went to registration office to re-register. Received article of Mississippi Constitution which she read and interpreted. Daniel said her interpretation was not correct. When asked, Daniel said she could come back.
- 33077 1957
Rejected Went with wife to attempt to register at Daniel's office and were given a section of the Constitution to read and interpret. Daniel told him he did not do it satisfactory.
- 33115 1957
Rejected Went alone to Daniel's office to attempt to re-register and was given a form to complete. Daniel advised him that he did not correctly answer the questions.
- [fol. 1822]
- 33096 After 1957
Rejected
Daniel Went to registration office to re-register. Was required to read aloud and interpret section of Constitution. Daniel said he didn't pass.
- 33096 About 1957
or 1958
Rejected Went to registration office to re-register. Was given section of Constitution to read aloud and interpret orally. Daniel said he didn't quite make it.
- 33051 1957 or 1958
Rejected Went to re-register. Received section of Constitution to read and interpret orally. Daniel said he could not register because he did not understand section well enough.

1178

[fol. 1835]

33032 Probably
1/28/63
Rejected

Went to Daniel's office to attempt to re-register. Daniel had him read and interpret section 123 of the Constitution.

Daniel advised him on 2/21/63 that he had failed.

33069 1/28/63
Rejected

Daniel rejected her for re-registration on the basis that she could neither read nor interpret Section 130.

33008 1/29/63
Rejected

Went to Daniel's office to re-register and was given Section 24 to read and interpret.

On 2/28/63 Daniel advised that he failed.

33055 1/29/63

Went to registration office. Received Section of Constitution to interpret orally. Daniel said he would let her know if she passed. In early March her husband saw Daniel and told him that Mrs. Hall still had not received the result of her test. Daniel said he thought he had mailed it to her, but did not tell husband if she passed. On 4/10/63, she still had received no word.

33016 1/29/63
Rejected

Went to Daniel's office to attempt to register. Daniel had him read and interpret Section 15 of the Constitution.

Daniel advised him on 2/28/63 that he failed.

33043 1/29/63
Rejected

Went to David's office to attempt to re-register and was given Section 25 to read and interpret.

On 2/28/63 Daniel advised that he had failed.

- 33155 1958 (Year not certain)
Rejected Went to registration office to re-register. Received section of Constitution to read aloud and interpret orally. Daniel said interpretation wasn't full enough.
- 33000 1958
Rejected Went to register and Daniel gave him a section to read and interpret. At this time Daniel advised that he had failed.
- 33000 1958
Rejected Went to re-register at Daniel's office and was given a section to read and interpret. Daniel advised him at that time that he had failed.
- 33066 1958
Rejected Went to Daniel's office to re-register and was given a section to read and interpret. Daniel advised that the interpretation was not satisfactory.
- [fol. 1823]
- 33118 About 1958
Rejected Went to registration office to re-register. Received section of the Constitution which she read aloud and interpreted orally. Daniel said she didn't pass.
- 33060 About Summer 1958
Rejected Went to registration office. Daniel had company. When they left, he gave her section of Constitution to read and interpret. Daniel said interpretation wasn't quite right. She asked what is wrong, he said he could not tell her. She said she thought those whose names were already on the book would not have to go through that procedure. He said under the new law they did.

33012 1/29/63
Rejected

Went to re-register at Daniel's office and was given Section 28 to read and interpret.

On 2/28/63 Daniel advised she had failed.

[fol. 1836]

33134 1/29/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 101 to read and interpret.

On 2/21/63 Daniel advised he failed.

33122 1/29/63
Rejected

Went to re-register at Daniel's office and was given Section 30 to read and interpret.

He was advised by Daniel on 2/28/63 that he failed.

33081 1/29/63
Rejected

Went to Daniel's office to attempt to re-register. Daniel gave him Section 31 to read and interpret.

On 2/21/63 Daniel advised him he failed.

33013 1/30/63
Rejected

Went to Daniel's office to attempt to register. Daniel had him read and interpret Section 101 of the Constitution.

Daniel advised him on 2/28/63 that he failed because he was unable to read.

33036 1/30/63
Rejected

Went to Daniel's office to attempt to re-register. Daniel had him read and interpret Section 25 of the Constitution.

Daniel advised him on 2/28/63 that he had failed.

33131 1/30/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 30 to read and interpret.

On 2/28 Daniel advised he had failed.

1166

- 33011 About 1959
Rejected Went to registration office to re-register. Required to read and interpret orally a section of the Mississippi Constitution. Daniel did not register him.
- 33132 1959
Rejected Went to registration office to re-register; received typewritten section of the Constitution to read to himself and interpret orally. After applicant explained the section as well as he could, Daniel said he didn't make it.
- 33071 1959
Rejected Went to Daniel's office to attempt to register and was given a section to read and interpret. Daniel advised him that he did not pass.
- 33108 1959
Rejected Went with husband to re-register at Daniel's office and was given a form to fill out. Daniel advised her "there was a little something wrong with it" and she could not register.
- [fol. 1824]
- 33056 1-1959
Accepted Went to registration office to re-register. Required to read and interpret section of Miss. Constitution. Daniel said interpretation was not quite right. Hawthorne went over it again, gave slightly different explanation. Daniel said that was all right, allowed him to register.
- 33060 1-27-59
Accepted Went to registration office to re-register. Received section of constitution to read and interpret orally. Daniel told her to sign her name.
- 33149 1-28-59
Passed Went with husband to re-register and he gave them a section to interpret, after which he told her to sign her name to the registration book.

33185 About
Spring 1959
Rejected

Went to registration office with another Negro man to attempt to re-register. Was given section of constitution on a strip of paper to read aloud and interpret orally. He read it, but was not able to interpret it. Daniel said he could not register.

33026 April or
May 1959
Rejected

Went to husband to registration office to re-register. Daniel took them one at a time into back office. Each one received a different section of the Constitution, which they read aloud and interpreted orally. Daniel permitted husband to register, but told Mrs. Easterling her interpretation was not correct.

33026 April or
May 1959
Rejected

Went to registration office to re-register. Received same section husband received and interpreted successfully a week earlier. Read it aloud, and tried to repeat exactly the interpretation her husband had told her he gave, but Daniel said her interpretation was incorrect.

[fol. 1825]

33026 April or
May 1959
Rejected

Went to registration office to re-register. Received section of constitution which she read aloud and interpreted. Daniel said interpretation was incorrect.

33052 7-59
Rejected

Went alone to Daniel's office to re-register and was given a section of the constitution to read and interpret. Daniel told him he could not read or interpret it satisfactorily.

1168

33051 July or
August
1959
Rejected

Went to registration office to re-register. Received section of Constitution on piece of paper. Was asked to explain it. Daniel said he didn't understand it quite well enough and said that the law was that he would have to understand it to register.

33085 1960
Rejected

Went to register at Daniel's office and was given a section of the Constitution to read and interpret. Daniel said he didn't read it satisfactorily.

Cotton Green was with him.

33071 1960
Rejected

Went to Daniel's office to attempt to register and was given a section to read and interpret. Daniel told him he did not give a satisfactory interpretation and he could not read it.

33132 1960
Rejected

Went to registration office to re-register, received typewritten section of the Constitution to read to himself and interpret orally. After applicant explained the section as well as he could, Daniel said he didn't make it.

[fol. 1826]

33155 1961
Rejected

Went to registration office to re-register. Received section of Constitution to read aloud and interpret orally. Daniel said interpretation was unsatisfactory.

33133 1-1961
Rejected

Went to re-register at Daniel's office but was given a section to interpret and read. Daniel advised him that his attempt at interpreting was not satisfactory.

33146 Jan. or
Feb. 1961
Rejected

Went with her husband to try to re-register. Daniel gave them a strip of paper with a section of the Constitution on it to interpret orally. Daniel told her she did not pass.

33147 2-1961
Rejected

Went to registration office with his wife to re-register. Was given a section of Constitution typed on a strip of paper, and was asked to give oral interpretation. Mr. Daniel said, "You didn't quite make it."

33147 2-1961
Rejected

Went alone to the registration office to re-register. Daniel asked him if he reckoned he could make it and whether he had been studying. Was given a typed section of the Constitution and was told to read it to himself and give an oral interpretation. Daniel told him "You didn't quite make it."

33147 2-1961
Rejected

Went by himself to re-register. Daniel asked if he had been studying and Ward stated he had. Ward was given a section of the Constitution on a small piece of paper to read to himself and interpret orally. Registrar informed Ward that he "didn't quite make it."

[fol. 1827]

33132 5 times
in early 1961
Rejected

Went alone to registration office to re-register. Received typewritten section of the Constitution to read to himself and interpret orally. After applicant explained the section as well as he could, Daniel said he didn't quite make it. The section of the Constitution was different from the one he had received on his previous attempt.

33064 11-6-61
Accepted

Went to registration office with husband, who said they wanted to re-register. Daniel took them into office one at a time, gave her section of constitution to read to herself and interpret. Not required to read aloud. Daniel asked if she had ever been convicted of a crime, and if she was a member of a church. She answered no to first question, yes to second. Daniel gave her book to sign.

33065 11-6-61
Accepted

Went to registration office with wife, Genora Holloway. Said they wanted to re-register. Daniel took him into his office, gave him section of the constitution to read to himself and interpret orally. Before Daniel registered him, he asked if Holloway had "allowed them to use your name to prosecute me." Holloway said not directly, but he had answered FBI questions. Daniel asked how many wives he had had, how many children, if he had ever been arrested, ever convicted, if he was a church member, and if he had any children outside of wedlock. Holloway answered he had been married twice (his first wife died), had only one set of children, had spent one night in jail, had no children out of wedlock. Holloway was permitted to register.

[fol. 1828]

33057 About
2-5-62
Rejected

Went to registration office with sister-in-law, Lauraree Hall to re-register. Daniel took them into inner office one at a time. Daniel gave her section 123 of the Mississippi Constitution to read to herself and interpret. She said, if a person had committed a

crime she thought he should be punished for that crime. Daniel said what she said was right, but did not answer the section. She left.

33104 4-30-62
Rejected

Went to registration office at 4:30 p.m. with Charlie, Frankie Ann Moore, T. R. Powell, Ida Mae Powell, Curtis Moore, John B. Gholan, Betty Moore (19 yrs. old), Shelly Mae Powell (20 yrs. old), and Florence Nicholson, all Negroes. Daniel asked who had previously registered, and took the three who said they had, including Ernest Moore, into a back room. Daniel said he could not find records of their registration and gave two of them, Frankie Moore and Florence Nicholson, application forms. Daniel gave E. Moore a slip of paper. Moore reports that Daniel asked him if he could memorize the Constitution and interpret it. Ernest Moore said no. Daniel, Ernest Moore, and the sheriff returned to the outer room where the others who had not previously registered were filling out forms. At 5:00 they all were told to leave, even though their forms were incomplete.

33057 5-7-62
Rejected

Went to registration office to re-register in the morning. Daniel gave her section 104 of the State Constitution to read to herself and interpret. He said the answer was incorrect.

1172

[fol. 1829]

33057 5-7-62
Accepted

She entered registration office in the afternoon. Daniel gave her section 146 of the Miss. Constitution, which she read to herself and successfully interpreted. Before interpreting, she said she was tired of being a second class citizen. Daniel said there was nothing to that. She said, yes, there was.

After the test Daniel said "Well, you finally made it. Come sign the book."

33146 5-7-62
Rejected

Went to registration office with her daughter, Hattie Virginia Ward (20 yrs. old), her son, James Lee Ward, and Maisie Holloway (Negro, also 20 yrs. old). She wanted to re-register, the three others to register. Daniel gave her son an application form, gave her section 104 to interpret orally. She said it meant no person should enter a lawsuit against Mississippi or any of the branch offices. When he told her that was wrong, she tried to rephrase it. When she asked him to explain it to her, Daniel asked if she thought he would help her with something when she wanted to go to law against him.

She asked if she could use the library in the courthouse and he said there was no library there.

[fol. 1830]

33161 2/26/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 6 to read and interpret.

On 2/21/63 Daniel advised he failed.

33165 4/1963
Rejected

Went to re-register in April. Asked to read and then to interpret when Daniel read it back to her. Received a notice of rejection some time later, and appealed to the Board of Election Commissioners. She appeared and was asked to read for them. One replied "you didn't miss a word." Mr. Daniel then read the Section to her. The Board member then said "you didn't sound like Mr. Daniel. Since Mr. Daniel said you failed, I'll say you failed." She was then advised to see an attorney. She was not asked to interpret on her appeal.

33105 4/22/63
Rejected

Went to re-register at Daniel's office and was given Section 20 to read and interpret.

On 5/16/63 Daniel advised that he had failed.

33012 4/27/63
Rejected

Went to registration office to re-register. Received Section 130 to read and interpret orally. Daniel advised by letter dated 5/23/63 that she was rejected.

33181 End of
May, 1963
Rejected

Previously having been registered she attempted a number of times; last time in May 1963. Though she was told by Daniel that she had read pretty fair she was not registered.

33097 5/20/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 28 to read and interpret.

On 6/13/63 Daniel advised that he failed.

1174

[fol. 1831]

33186 Early
6/1962
Rejected

Went alone to registration office to re-register. Daniel got some papers, asked applicant if he was honest, paid his debts, had ever been in jail. Daniel asked him questions and filled out a form. Daniel required him to read aloud and interpret orally a section of the Mississippi Constitution from a paper. Daniel held paper on counter near which Holloway was standing. Daniel said he didn't quite make it, and he should come back. Holloway left.

33118 10/22/62
Accepted

Went to registration office to re-register. Daniel showed her section of Constitution in a book and asked if she could explain it. She said yes. She read it aloud and explained it. She registered.

33011 12/18/62
Rejected

Went to registration office to re-register. Received section 50 to read and interpret. Was advised by letter dated 1/28/63 that he failed.

33042 12/28/62
Rejected

Went to Daniel's office to attempt to re-register and was given section 15 to read and interpret. Daniel advised on 1/28/63 that he had failed.

33047 About
Winter
1962-63
Rejected

Went to registration office. Received section 23 of Constitution to read and interpret. He tried to read it. Then Daniel read it to him and asked him to interpret orally. Was later notified that he did not pass.

33103 1/63
Rejected

Went to Daniel's office with his son to attempt to re-register and was given a section from the Constitution to read and interpret. It is not known if he was rejected.

[fol. 1832]

33067 1/1963
Rejected

Went to Daniel's office to re-register and was asked to read and interpret a section.

On 4/10/63 she had not yet been advised as to her success.

33094 1/63
Rejected

Went to re-register at Daniel's office and was given section 25 to read and interpret.

Daniel advised on 2/21/63 that he failed.

33101
Rejected

Went to Daniel's office to attempt to re-register and was given section 123 to read and interpret.

On 2/14/63 Daniel advised that he failed.

33071 1/2/63
Rejected

Went to re-register at Daniel's office and was given section 119 to read and interpret.

On 2/14/63 Daniel advised he had failed.

33035 1/9/63
Rejected

Went to Daniel's office and attempted to re-register. Daniel had her read and interpret section 29 of the Constitution.

Daniel advised her on 2/7/63 that she had failed.

33079 1/11/63
Rejected

Went with wife to registration office to re-register. Daniel scattered out eight or ten tickets and he picked no. 12. Daniel got a slip of paper. Applicant read it aloud and interpreted it orally. He received notice dated 2/7/63 that he did not pass.

On Saturday, probably 2/9/63, he went to Daniel's office to try again. Daniel would not let him try again because he said he was going to send him a notice. On Monday, probably

[fol. 1833]

2/11/63, the day Laird received the notice, he went to the Circuit Clerk's office alone. He asked where the Election Commissioner's office was. Daniel asked if he wanted to go to the law with him. Laird replied "No, I just want to register." Daniel said, "Well, fill out the blanks, I'll go to the law with you." Because of this conversation with Daniel, and because of the advise of another Negro that he should stay away from B. C. Clark, one of the commissioners, he decided not to appeal.

33051 1/18/63
Rejected

Went to Daniel's office to re-register and was given section 75 to read and interpret. On 2/14/63 Daniel advised he had failed.

Went to hearing on appeal 3/21/63 even though he was sick. B. C. Clark, Henry Baker, Daniel and another white man were there. Asked if he had been studying he said no. Clark said "You just have to know that Constitution. We're just doing our job." Clark said he could come back another day with the same chance he had then. Clark said his wife could come another day also.

On 4/9/63 Hartzog saw B. C. Clark in town, asked if he had to come on a special day. Clark said any day, but since Clark was sick, Hartzog should see Daniel.

33052 1/18/63
Rejected

Went to Daniel's office to attempt to re-register. Daniel had him read and interpret section 80.

Daniel advised him on 2/14/63 that he failed.

[fol. 1834]

Hearing on appeal set for 3/21/63 B. C. Clark told husband, they could

- come back another day instead, since husband was sick and they hadn't studied Constitution.
- 33147 1/19/63
Rejected Went to Daniel's office to re-register and was given section 84 to read and interpret.
On 2/14/63 Daniel advised he had failed.
- 33146 1/19/63
Rejected Went to attempt to re-register at Daniel's office and was given section 80 to read and interpret.
On 2/14/63 Daniel advised she had failed.
- 33050 1/22/63
Rejected Went to re-register. Received section 73 to read and interpret orally. Advised by letter dated 2/14/63 that he failed.
- 33061 1/22/63
Rejected Went to Daniel's office to attempt to re-register. Daniel had him read and interpret section 101.
Daniel advised him on 2/14/63 that he failed.
- 33151 1/22/63
Rejected Went to re-register with her daughter, was asked her precinct, then drew number 13. She read and interpreted the section but Daniel failed to register her.
- 33025 1/28/63
Rejected Went to Daniel's office to re-register and was given section 30 to read and interpret.
On 2/21/63 Daniel advised that he had failed.
- 33031 1/28/63
Accepted Went to register with her son in Daniel's office. She selected a card, and read it outloud to him and interpreted it. She was required to explain what each word meant, such as "legislative," "judicial," and "executive." Received notice by mail that she passed.

33059 1/30/63
Rejected

Went to Daniel's office to re-register and was given Section 63 to read and interpret.

On 2/28/63 Daniel advised that he did not pass the test.

[fol. 1837]

33156 1/30/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 5 to read and interpret.

On 2/28/63 Daniel advised that he failed.

33083 1/31/63
Rejected
Accepted
on Appeal

Went to Daniel's office to attempt to re-register. Daniel gave him Section 8 to read and interpret.

On 2/28/63 Daniel advised him that he failed. Appealed. Hearing 3/20/63 before Daniel, B. C. Clark, Henry Baker, and a white man he did not know. Was required to copy and interpret in writing a section of the Constitution which they picked. All looked at it. Daniel said he had improved on Constitution since he had last tried to register. All four agreed he passed. Daniel said he would send him notice when to come to register. On 4/10/63 notice had not yet arrived.

33109 1/31/63
Rejected

Went to re-register at Daniel's office and was given Section 73 to read and interpret.

On 2/28/63 Daniel advised that he failed.

33136 1/31/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 25 to read and interpret.

On 2/28/63 Daniel advised that he failed.

33058 2/1963

Went to registration office to re-register. After checking to see if he had been registered previously Daniel had him read and then asked if he would interpret a section of the Constitution. Mr. Holloway said, "I can't, not right now. I'll have to come back." He had already finished the reading part of the exam. As of 4/12/63 Mr. Holloway had not received anything in written from Daniel. He is not listed among the first 92 rejected applicants.

[fol. 1838]

33097 2/1963
Rejected

Went to Daniel's office to re-register and was given Section 6 to read and interpret.

Daniel advised that he failed 3/29/63.

33087 2/1963
Rejected

Went to registration office. Received Section 5 to read and interpret orally. Was notified in March that she failed.

33089
Rejected

Went to Daniel's office to re-register and was given section 86 to read and interpret.

Daniel advised on 3/14/63 that he failed.

33088 2/1963
Rejected

Went to Daniel's office to re-register and was given Section 29 to read and interpret.

A 2/21/63 Daniel advised that he had failed.

33138 2/1963
Rejected

Went to Daniel's office to attempt to re-register and was given Section 156 to read and interpret.

On 2/14/63 Daniel advised he failed.

33157 2/6/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 101 to read and interpret.

On 3/7/63 Daniel advised that he failed.

1182

33018 2/7/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 104 to read and interpret.

On 3/7/63 Daniel advised that he had failed.

33141 2/7/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 157 to read and interpret.

On 3/7/63 Daniel advised that he had failed.

[fol. 1839]

33090 2/15/63
Rejected

Went to re-register at Daniel's office and was given Section 104 to read and interpret.

On 3/14/63 Daniel advised her that she failed.

33151 After
2/17/63
Regs'd.
after
Appeal

Attempted to re-register again after 2/17 and was asked to read and interpret. Received rejection notice and appealed. On appeal she read for three men, one being a B. C. Clark. The latter said she had read well and told Daniel "these people will make no trouble." She signed the registration book. She told us the word "alien" was in the section she had to read.

33085 2/18/63
Rejected

Went to Daniel's office to attempt to register. Daniel gave him Section 167 to read and interpret.

On 3/14/63 Daniel advised him that he failed.

33104 2/18/63
Rejected

Went to Daniel's office to attempt to re-register and was given Section 156 to read and interpret.

On 3/14/63 Daniel advised that he failed.

33072 2/20/63
Rejected

Went to Daniel's office to attempt to re-register. Daniel had her read and interpret Section 5.

Daniel advised her on 3/21/63 that she failed.

33006 2/26/63
Rejected

Went to Daniel's office to attempt registration. Daniel had him read and orally interpret Section 1 of the Constitution. Daniel advised him on 3/29/63 that he failed because he was unable to read.

33095 2/26/63
Rejected

Went to re-register at Daniel's office and was given Section 28 to read and interpret. Daniel advised her on 3/21/63 that she failed.

[fol. 1840]

C

The following Negro citizens of Jefferson Davis County were denied voter registration on the basis of moral character. The official in all instances was Circuit Clerk James Daniel. The events set forth took place in the office of the Circuit Clerk, Prentiss, Mississippi.

33096 1961
Rejected
Daniel-R

Went to registration office to re-register. Daniel told him laws had been passed that people could not register who had violated any laws concerning drunkenness or robbery or stealing anything. Daniel said applicant had taken wood from the school house. Applicant said he had been accused of that, but it had been cleared up and never was tried in court. The Judge had required him to pay \$9.00 for "his writing and the deputy's collection." Daniel would not give him a test, but said he was not supposed to register him.

33001- 1-10-63
Rejected
Daniel

Went to Daniel's office to re-register and was advised on 2-7-63 that his application to register to vote was challenged under the good moral character law. Daniel advised the District Court that Armstrong was a "notorious bootlegger and law breaker" and that Armstrong had not contested the challenge made in accordance with House Bill 899.

33106 1-10-63
Rejected
Daniel

Went to re-register at Daniel's office. Received application form and sec 104 to copy and interpret in writing. Answered question #16 "no" when he had allegedly been convicted once for the "sale of intoxicating liquors." Advised by letter dated 2-17-63 that he failed.

Filed appeal & went to hearing before Board of Election Commissioners, including B. C. Clark & 2 white men. Daniel was there & mentioned his convictions & asked if he was member of NAACP. Was not given any new test. Appeal unsuccessful.

[fol. 1841]

33053 1-28-63
Rejected
Daniel

Went alone to attempt to re-registration at Daniel's office. Daniel rejected him on the basis of moral character, stating to the District Court that, Hooker had been bootlegging for several years and had not contested the affidavit filed against him.

D

The following instances have occurred of Negro citizens of Jefferson Davis County, Mississippi, being deterred from attempting voter registration. These events took place in the county.

33014 Prior to
April, 1961
Deterred
Daniel

Did not attempt to take test because he heard from Negro neighbors of the difficulty in passing the test. These neighbors were Gaston Holloway and James Hartzog.

33027 1961-62
Deterred

On Thursday, 12-21-61, a news story appeared on the front page of the *Prentiss Headlight*, which listed 41 Negroes who were named as complainants of racial discrimination in voter registration in the Amended Complaint in the case of *U.S. v. Daniel*. The list included the names or the names of husbands of six full time teachers who taught in Jefferson Davis County. In April, 1962, these six teachers were notified directly or indirectly that they had not been recommended to be rehired for the following school year. These were: L. W. Easterling, Eva A. Easterling, Mabel Walker Armstrong, Mrs. Otis Cornelius Payne, Mrs. Wardell Gray, and Edna McCleod. Justice Department attorneys and FBI agents immediately investigated the situation. After this investigation had begun, four of these teachers were belatedly recommended to be rehired. Mr. and Mrs. Easterling, however, were not rehired.

Mr. Easterling knew of no reason why his contract was not renewed except that his name had appeared in local paper in connection with *U.S. v. Daniel*. He thought that his not being rehired would deter other Negroes, especially teachers, from attempting to vote.

1186

[fol. 1842]

- 33098 After 4-30-62 After she and nine other Negroes attempted to register on April 4, 1962, Mrs. Frankie Moore said she did not return because some had been asked to memorize the Constitution.
Deterred
Daniel
- 33107 April, 1963 She said that she and other Negroes in the Oakvale section of Jefferson Davis County saw no point in attempting registration when Charlie Griggs, also an Oakvale Negro, who had two years of college, had tried more than once and had been rejected each time.
Deterred

[fol. 1843]

E

The following Negro citizens of Jefferson Davis County were denied the opportunity to apply for voter registration in that county. All such denials took place at the office of the Circuit Clerk, Prentiss, Mississippi.

- 33154 1/1957 - Went alone to try to re-register but Daniel told him that he had something else to do.
Daniel-R
Refused
- 33154 1/1957 Went to Daniel's office to re-register and was told that he was not qualified and was not given any test.
Daniel-R
Refused
- 33010 Spring 1958 Went to re-register with another Negro at Daniel's office. Daniel told them he was out of forms and that he could not register.
Daniel-R
Refused
- 33062 About 1958 Went with husband to registration office. Daniel told husband he couldn't register. Husband said, "Why, Mr. Daniel, I can't register and I have been living right here all my life!" Mrs. Herron did not hear Daniel say anything else, and did not speak herself. They left.
Daniel-R
Refused

- 33147 1958
Daniel-R
Refused Went with Fred Ross and Y. C. White to re-register. Daniel said that he had been in court (Darby v. Daniel), and that they should come back in about two weeks. He said he did not have time to register them.
- 33149 1958
Daniel-R
Refused Went with husband to re-register, but Daniel said he was too busy.
- 33032 1959
Mrs. Daniel-
D.C.
Refused Went with Scott Barnes to Daniel's office to attempt to re-register. Mrs. Daniel was there and told them Daniel takes care of the registration and that he was out. They then left the office.
- 33032 1959(?)
Daniel-R
Refused Went with Gabe Terrell to Daniel's office to attempt to re-register and was told by Daniel that he did not have time to take care of them.
- 33026 Spring, 1959
Daniel-R
Refused Went to registration office to re-register. Daniel said he had work to do, and that there was no need for her to come back since she would not be eligible to vote in the election. She understood him to mean the general election coming Nov. 4, 1959. She did not return.
- [fol. 1844]
- 33065 Jan. 1959
or 1960
Daniel-R
Refused Went to registration office with wife, Genora Holloway, in latter part of January. Said they came to see if they could put their names back on the book. Daniel said it was 11:40 a.m., and asked them to return another day. They left.

- 33065 Jan. 1959 or 1960
Woman & 2 men
Refused
Went to registration office to reregister with wife (Genora Holloway), and John Barnes. Told lady in office, believed to be Mrs. Daniel, that they had come to register. Lady said Daniel was sick. Returned following day with wife, but not Barnes. Daniel's private office was closed, but two men sitting in the lobby part said Daniel was still sick.
- 33140 2/1959
Daniel-R
Refused
Went with John Goodloe to Daniel's office. He told them he was too busy to register them. They left.
- 33064 Jan. 1959 or 1960
Daniel-R
Refused
Went to Daniel's office with husband in latter part of January. Husband said they came to see if they could put their names back on the book. Daniel said it was 11:40 a.m. and asked them to return another day. They left.
- 33064 Jan. 1959 or 1960
Woman & 2 men
Refused
Went to registration office to reregister with husband (Gaston Holloway), and John Barnes. Husband told lady in office, believed to be Mrs. Daniel, that they had come to register. Lady said Daniel was sick. Returned following day with husband, but not Barnes. Daniel's private office was closed, but two men sitting in the lobby part said Daniel was still sick.
- 33148 2/1959 and 3/1960
Mrs. Daniel-D.C.
Refused
Went in Feb. 1959 with wife to Daniel's office but the registrar was not there. The same happened again in March 1960. Both times Mrs. Daniel met them.
- 33030 9/1960
Daniel-R
Refused
Went alone to Daniel's office to attempt to re-register. There were several other Negroes in the office and Daniel told them to "get out". He left.

33139 9/1960
Daniel-R
Refused

Went with Fred Ross to attempt to register and Daniel told them he didn't have time right then—and that they'd have to come back.

[fol. 1845]

33140 10/1960(?)
Mrs. Daniel-
D.C.
Refused

Went with John Goodloe to Daniel's office to attempt to re-register and was told by Mrs. Daniel that her husband was ill. They then left.

33057 About
11/1960
Man
Refused

Went to registration office to try to re-register. A group of white men were sitting outside the office. When she said she wanted to see Daniel, they said he was ill and not in the office. They continued to talk among themselves, and she left.

33030 1/1961
Daniel-R
Refused

Went to Daniel's office to attempt to re-register at about 11:00 a.m. Daniel told him he was leaving for lunch. He left and returned at 1:00 p.m. but Daniel was still gone.

33048 1961
Daniel-R
Refused

Went with wife to registration office. Daniel said they could not register until court is over. They left.

33062 1961
Daniel-R
Refused.

Went with husband to registration office. Daniel told husband he couldn't register. Husband asked why. Mrs. Herron does not know what Daniel answered. They were not permitted to register. Daniel said, "Well, you all will have to go through a process of law and that will be in Jackson, Mississippi."

33065 8/17/61
Daniel-R
Refused

Went with wife, Genora Holloway, to registration office, which was locked. When asked, someone in the hall said he thought Daniel had gone down the street to get coffee. They left. Returned with wife on Aug. 20, 1961, and said they wanted to re-register. Daniel said court was going on, and his books were "all fumbled," but they could come back another day.

33064 8/17/61
Daniel-R
Refused

On Aug. 17, went with husband, Gaston Holloway, to registration office, which was locked. When asked, someone in the hall said he thought he had gone down the street to get coffee. They left. Returned with husband on Aug. 20, 1961, and husband said they wanted to re-register. Daniel said court was going on, and his books were "all fumbled," but they could come back another day.

[fol 1846]

33147 8/21/61
Daniel-R
Refused

Went with his wife to the registration office to re-register. The door was closed but not locked; they opened it and entered. Daniel, a white woman believed to be Mrs. Daniel, and a man Ward thought was a lawyer were in that office. When told the Wards wanted to register, the white woman said "you'll have to come back in two weeks. Mr. Daniel will be in court for two weeks." Mr. Daniel walked past them out of the office. They left.

33146 8/21/61
Daniel-R
Refused

Went to registration office with her husband to attempt to re-register. Found the door closed but not locked. They opened the door; Mr. Daniel was in the office with a white woman, believed to be Mrs. Daniel, and a white man who seemed to be a lawyer.

When the white woman asked what they wanted, they said they wanted to register. She said Mr. Daniel was in court and would be for the next two weeks. While they were talking to the white woman, Mr. Daniel went past them out of the office. They left.

33112 1/29/62
Daniel-R
Refused

Went with wife to registration office to re-register. Daniel went into another room, came back and said, "You are a complainant in this case against me." Applicant said, "I don't know, maybe so." Daniel said he should wait until after the trial. Wife said they had paid their poll tax. He said paying poll tax has a deadline registration has none. She said then they could register then. He said no, wait until after trial.

33111 1/29/62
Daniel-R
Refused

Went with husband to re-register. Daniel said they would have to wait until after court because they were complainants.

33132 About
2/1962
Daniel-R
Refused

Went alone to the registration office to re-register. Daniel would not allow Ross to apply. Daniel said he was in court.

[fol. 1847]

33146 3/15/62
Daniel-R
Refused

Went with husband to registration office to attempt to re-register. Daniel asked if they were the complainers. They asked what he meant. He said, "You've got me sued, you'll have to wait till the Court is over."

33147 3/15/62
Daniel-R
Refused

Went with his wife to try to re-register. Mr. Daniel told them they had sued him in court, and they could not try to register until after the court case.

[fol. 1848]

Jefferson Davis Co. #70

F

The following Negro citizen of Jefferson Davis County was denied registration solely because he failed to sign the oath on his application form. This occurred in the office of the Circuit Clerk, Prentiss, Mississippi.

33076 6/22/62
Rejected
Daniel-R

He went to registration office. Received application form and section 74 of the Constitution. Wrote excellent full page essay on duties and obligations of citizenship. Handed in form, asked if that was all, Clerk said "yes." Went in again the same day because he thought that his registration was not complete. When he asked, Clerk said that his name would first be published in the newspapers and then form would be graded. Returned the week of August 5, to ask if he had passed. Clerk looked at application about a second and wrote "failed" across the top. Daniel did not tell him why he was failed. Daniel testified that he was rejected because he didn't sign oath.

[fol. 1849]

Jefferson Davis Co. #70

G

The following Negro citizen of Jefferson Davis County was denied the right to pay poll tax in the County. This occurred at the County Courthouse, Prentiss, Mississippi.

33020 1/28/60
Not allowed
to pay
poll tax
Sheriff
Grubb

Darby had been plaintiff in voter registration case, *Darby v. Daniel*. went to Courthouse to pay poll tax for himself and his wife. Even though he then had resided in Prentiss for the past twelve years, the sheriff said he did not know him and forced him to leave. He offered to identify him-

self by a white man who had known him a long time, and offered to show his 1959 poll tax receipt, but sheriff Grubb said he did not want to see him around, he should get out. Finally as Darby left, sheriff said, "I might sell you a poll tax later on, I might not."

[fol. 1850]

Jefferson Davis Co. #70

H

The following Negro citizens of Jefferson Davis County who had been rejected for voter registration by Circuit Clerk James Daniel were also denied registration upon appeal by the County Board of Election Commissioners. All events took place in Prentiss, Mississippi.

33117 1/15/63
Rejected
Daniel-R

Went to registration office to re-register. Daniel said his name had to appear in the paper twice before he could come back. Returned, pulled number, read and interpreted section 23. Daniel said he did not meet the qualifications. Received written notification that he failed, dated 2/7/63. Appealed, and on 3/22/63 met the Board of Elections including Mr. B. C. Clark, two other men, and Mr. Daniel. Clark asked him what had "enticed him to vote?" He was asked what he had been reading, whether he had been reading anything to learn to vote. Said no. Was given no test. Was told to go back to see registrar again.

33152 1/22/63
Daniel-R
Rejected

23-year-old Jackson college graduate attempted to register on 1/22/63, filled out form but later she received a letter notifying her of her rejection and notifying her of possibilities of appeal. She appeared for her appeal but was told by Daniel that the others had told him to tell her that her interpretation was wrong. She left.

33033 1/28/63
Daniel-R
Rejected

Went to registration office to re-register. Daniel had him read aloud and interpret section 29 of the constitution. Received notice dated 2/21/63 that he did not pass. He elected to appeal. Met with Election Commission, which included Mr. B. C. Clark and two white men whom he did not know. Mr. Daniel was also present. When asked, he said he had been registered before. One man asked if he had been studying up. Daniel said Gray had been in court twice and had tried to force his name back on the books through the court. Gray said he did not try to force his way anywhere but was subpoenaed to court just like any other citizen. Mr. Clark gave him Section 161, a difficult section, to read. He read it, and Mr. Clark said one word was not clear. He was not asked to interpret the section. The session ended. His appeal was dismissed.

[fol. 1851]

33167 4/23/63
Rejected
Daniel-R

Went down to register and was given Section 63 to interpret. One month later received notice of rejection by mail and an appeal form. She appealed and went before the Board of Election Commissioners. She was asked if she had been studying; she replied yes. She was then asked if

she "knew more now than the last time" she replied she didn't know. One of the white men present then, said she should know whether she knows more, and that it was out of their hands now. She was told that she was failed and that she should see an attorney.

33168 4/30/63
Rejected
Daniel-R

Went down to register and was given Section 80 to interpret. Was notified of rejection about one month later. She appealed to the Board of Election Commissioners. She appeared before the board and was asked whether she had studied since she had failed. She replied "no" and was told she was supposed to have studied. Was also asked by one of the white men present "if you haven't studied why are you back? There is no need to give you another test." The white man then said "I'm not supposed to do this," and gave her something to read. She read and was asked to interpret, she did, and was told "you shore failed." She was then told she could go see a lawyer and that one of them would send her the name of one. This information she never received.

Part II

Application Forms

1. Number of Application Forms

A re-registration of all voters was begun in Jeff Davis County on February 8, 1956. Prior to the re-registration, over 1200 Negroes were registered to vote in Jeff. Davis County. In July, 1958, the case of *Darby v. Daniel*, a private suit against the registrar who had taken office in January, 1956, was tried. On August 3, 1961, the government filed a complaint against Mr. Daniel and made a motion under Rule 34 F.R.C.P. for inspection of the voting records. On June 28, 1952, the government was permitted to inspect the records at which time there were only 13 application forms, the first dated April 30, 1962—all forms prior to this date were destroyed. A motion for inspection of record under Rule 34 F.R.C.P. was served on Daniel in August 1961 in connection with the case of *U. S. v. Daniel*. Copies of one volume of 78 forms of white persons and 13 forms of Negroes were introduced into evidence in the case of *Darby v. Daniel*. These forms are still in the District Court files of the Southern district of Mississippi.

2. Period which forms cover

There were 23 volumes of forms or about 2500 forms in existence in July, 1958. One volume of 78 forms, all dated in 1956, were introduced into evidence in *Darby v. Daniel*. [fol. 1853] The forms were put in the volumes at random and thus this volume of 78 forms is representative of the 2500 forms which were destroyed. All of these 78 forms were filed by white persons. The 13 Negro forms cover the period from March 31, 1956—February 20, 1958.

3. Analysis of the 78 forms of white persons and 10 forms of Negroes introduced into evidence in *Darby v. Daniel*.

(a) Selection Discrimination

From February 1956 to October 1956, James Daniel required all applicants to complete a sworn written application. He made no differentiation between appli-

cants previously registered to vote in Jefferson Davis County and applicants registering for the first time in that county. During this period, Daniel selected easier sections of the Mississippi Constitution for white applicants to interpret than he did for Negro applicants.

- (1) 62 of the 78 white applicants received Section 30 of the Mississippi Constitution to write and interpret. It reads:

There shall be no imprisonment for debt.

- (2) 13 of the 78 white applicants received Section 207 to write and interpret. It reads:

Separate schools shall be maintained for the white and colored races.

- [fol. 1854] (3) The remaining 3 white applicants of the 78 received Sections 32, 198, and 265.

- (4) The 13 Negroes, copies of whose application forms are still in existence, received Sections 16, 21, 23, 32, 61, 86, 108, 123, 146, 198 to write and interpret. They are:

John H. Lewis—3-31-56

Section 16

Ex post facto laws, or laws impairing the obligation of contracts, shall not be passed.

L. W. Easterling—4-6-56

Section 21

The privilege of the writ of habeas corpus shall not be suspended, unless when in the case of rebellion or invasion, the public safety may require it, nor ever without the authority of the legislature.

James H. Armstrong—4-2-56

Section 23

The people shall be secure in their persons, houses, and possessions, from unreasonable seizure or search; and no warrant shall be

issued without probable cause, supported by oath or affirmation, specially designating the place to be searched and the person or thing to be seized.

[fol. 1855] Flora W. Haynes—4-4-56

Genora Holloway—2-20-58

Section 32

The enumeration of rights in this constitution shall not be construed to deny and impair others retained by, and inherent, in the people.

Dudley Hawthorne—4-11-56

Section 61

No law shall be revived or amended by reference to its title only, but the section or sections, as amended or revived, shall be inserted at length.

John H. Williams—5-24-56

Section 86

It shall be the duty of the legislature to provide by law for the treatment and care of the insane; and the legislature may provide for the care of the indigent sick in the hospitals in the state.

John Barnes—

Section 108

Whenever the legislature shall take away the duties pertaining to any office, then the salary of the officer shall cease.

Gaston Holloway—2-20-58

Henderson Darby—6-24-56

Section 123

The governor shall see that the laws are faithfully executed.

[fol. 1856] Ernest L. Lockhart—5-14-56

Section 146

The Supreme Court shall have such jurisdiction as properly belongs to a court of appeals.

Eva Easterling—4-6-56

Johnie B. Darby—6-22-57

Section 198

The legislature shall enact laws to prevent all trusts, combinations, contracts, and agreements inimical to the public welfare.

- (5) No Negro applicant during this period received Section 30 or Section 207 to write and interpret.

(b) Assistance to write persons

From February, 1956 through October 12, 1956, defendant Daniel used the application form to register white applicants and reject Negro applicants on account of their race. White applicants were given assistance in completing the application form and in interpreting a section of the Mississippi Constitution and in giving a statement of the duties and obligations of citizenship: Negro applicants were refused assistance.

Four of the 78 forms of these white persons were filled out entirely by James Daniel.

[fol. 1857] (1) James Daniel filled out the application form for Mrs. Carl Stephens, Sr., white, on April 25, 1956. The statement of duties and obligations in Question 20 is:

Abide by all laws of the state and nation—Exercise the right to vote—a person should be willing to serve the public in any place for the benefit of the general public.

- (2) 41 of the 78 applicants (copies of whose forms are still in existence) wrote standard answers for Question 20—the duties and obligations of citizenship question. Each of these 41 answers contains

the following thoughts all of which are contained in the form of Mrs. Stephens filled out by Daniel:

~~Abide~~ laws—state—nation—enjoy (or exercise) the right to vote or enjoy the privilege of voting.

- (3) Nineteen of the 62 white applicants (whose forms are still in existence) who received Section 30 gave verbatim interpretations of Section 30 in answer to Question 19 at well as verbatim statements of the duties and obligations of citizenship in answer to Question 20. Their verbatim answers are:

Question 19—"No person can be imprisoned for a debt."

Question 20—"To abide by all state and national laws. To enjoy the right to vote."

[fol. 1858] Four other white applicants gave the standard interpretation of Section 30 except for omission of the word "a" between "for" and "debt":

Question 19—"No person can be imprisoned for debt."

Each also gave verbatim the standard answer for Question 20:

Question 20—"To abide by all state and national laws. To enjoy the right to vote."

- (5) Two white applicants, on April 24, 1956, gave as their interpretations of Section 207:

There will be separate schools for the races in Mississippi.

There will be separated schools for races in Mississippi.

The applicants wrote for Question 20:

Abide by all laws of the Constitution and exercise the right to vote.

Abide by all laws of the Constitution and exercise right to vote.

- (6) Two white applicants receiving Section 207 on April 13, 1956, to interpret gave as their interpretations:

There will be no mixing of the races in school in Mississippi.

There will be no mixing of the races in schools.

- [fol. 1859] (7) The application forms of the 10 Negro applicants contain no standard answers for Question 20.

C. Grading

James Daniel did not grade the interpretations of white applicants, but did grade and reject Negro applicants for their interpretations.

- (1) Two of the 13 white applicants who received Sec. 207 merely re-copied verbatim Section 207 as their interpretation.
- (2) Zelus Paine Polk, white State Representative for Jefferson Davis County, (one of the three persons of the 78 who was not given Sec. 30 or Sec. 207) and Eva Easterling, a Negro school teacher, were both given Section 198 to interpret. Section 198 reads:

The legislature shall enact laws to prevent all trusts, combinations, contracts and agreements inimical to the public welfare.

Zelus Paine Polk was registered by James Daniel on April 30, 1956. His interpretation was:

It is the duties of the legislature to see that the well fair of its citizens is Protected against acts of Violence and disturbances and all acts that would lead to it's over throw. Safe guard the country and its Constitution.

[fol. 1860] Eva Easterling was rejected by James Daniel on April 6, 1956. Her interpretation was:

The legislature shall pass laws to protect all Trusts, Combinations, Contracts, and agree-

ments that are worthwhile for the people welfare. The legislature passed these laws to protect the people that live as citizen of the State.

- (3) Parkman A. Fortenberry, white, and Genora Holloway, a Negro with two years college education were both given Section 32 to interpret. It reads:

The enumeration of rights in this Constitution shall not be construed to deny and impair others retained by and inherent in the people.

Parkman A. Fortenberry was registered by James Daniel on April 27, 1956. His interpretation was:

The Constitution is so written that it cannot be changed and that the people make up the rights and no one can change them so as to protect any and all concerned.

Genora Holloway was rejected by James Daniel on February 20, 1958 on the basis of her interpretation. Her interpretation was:

The enumeration of rights in this Constitution should not be changed to deny any law-abiding citizen of his civil rights, in his county nor state.

- [fol. 186r] (4) Jeffie Garner Smith, white, was registered by James Daniel on July 7, 1956. He was given Section 30 to interpret which reads:

There shall be no imprisonment for debt.

His interpretation was:

Without due process of time and law.

[fol. 1862]

Lamar #72

Part II

Application Forms

1&2. Number of Application Forms

Period includes forms from 7/18/60 to 7/5/63.

White

Accepted

461

Rejected

2

No Negro forms

3. Analysis of Forms

a. Selection of Constitutional Sections—

Section	No. of applicants
30	117
14	67
240	229
265	20
8	10
164	1
143	1
16	5

b. Assistance to White Applicants—

An analysis of the application form shows numerous verbatim or almost verbatim answers to Question 19 (interpretation) and Question 20 (duties and obligations of citizenship).

- (1) Forms with verbatim or almost identical answers to Questions 19 and 20.

Section 14

Section 14 of the Mississippi Constitution states:

No person shall be deprived of life, liberty, or property except by due process of law.

[fol. 1863] The following 47 white registrants wrote (or attempted to write) the following statement as their interpretation:

State as Federal Government is without power to deprive a person of life, liberty, or property by an act which has no reasonable relation to any proper Governmental purpose.

Each applicant, with only minor variations, also wrote in answer to question 20:

Obey the law and respect the rights of others.

Date of Application	Name
7-18-60	Myatt, Jean Ellen
12-27-60	Tharp, Juanita G.
12-27-60	Dean, Mary Ann T.
1-23-61	Morgan, Bruce
1-24-61	Riley, Ora Ray
1-25-61	Walker, Eva Jo
1-26-61	Swan, Thomas D.
1-26-61	Ladner, Vernon M.
1-27-61	Walker, Caludia C.
1-30-61	Eubank, David Truman
1-30-61	Young, Louella
1-30-61	Hall, Mary A. S.
3-9 -61	Burge, Aubrey Eugene
10-31-61	Henderson, Martha Nell
1-4 -62	Moore, Helen Mrs.
1-4 -62	Bond, Reginald B.
1-4 -62	Baker, Charlene Mrs.
1-6 -62	Stephens, Troy Wayne Mrs.
1-16-62	Simmons, Jewel
1-22-62	Herrin, Annie V.
1-25-62	Bond, Reginald B. Mrs.
1-25-62	Jones, James Joseph
1-26-62	Price, Joe R.
1-26-62	Brice, Joe B.
1-26-62	Eubanks, Michael Ray

[fol. 1864]

Date, of Application

Name

1-26-62	Johnson, James O.
1-27-62	Hartfield, Braxton
1-30-62	Parker, George M.
1-30-62	Bond, David
1-30-62	Dickinson, Grady Frances
1-30-62	Piercy, J. V.
1-31-62	Morgan, Ivory C.
1-31-62	Evans, Kendall
1-31-62	Murphy, Mildred
1-31-62	Anderson, Jessie Marie
1-31-62	Hatfield, Marie
2-1 -62	Slade, Sidney Calvin
3-27-62	McCraney, W. R.
3-27-62	McRaney, R. Mrs.
5-4 -62	Shoemaker, Letha
5-14-62	Stuart, James Hugh
5-15-62	Wilson, Anita N.
6-17-62	Stratton, Joseph S.
8-10-62	Davis, Vera C.
8-21-62	Clinton, Jo Ann B.
9-6 -62	Casonova, L. J.
9-18-62	Graham, Richard G.

(2) The following groups of registrants wrote verbatim or substantially similar answers to both questions 19 and 20.

Section 240

"All elections by the people shall be by ballot"

Group I (22 Registrants)

Date of Registration	Name	Q19. & Q20.
2-1-62	Hartfield, Jo Ann	Q19. Will vote my ballot by secret Q20. Obey laws by state
10-23-62	Stafford, Melvin	Q19. All public voting shall be in secrecy to the voter. Q20. Obey The laws

Date of
Registration Name

[fol. 1855]

Q19. & Q20.

11-20-62 Clinton, Glyn E.

Q19. All persons
voting is done by
secret ballot
Q20. bey the laws

1-4-63 Haddox, Ray

Q19. Ever person
cast a secret
ballot
Q20. Obey the laws

1-10-63 Swann, Carolyn D.

Q19. Vote by secret
ballot
Q20. Obey the laws
of the state.

1-22-63 Smith, Brenda H.

Q19. To vote by
secret ballot.
Q20. To obey the laws
of the state.

1-22-63 Bynun, Rankin G.

Q19. Vote by secret
ballot
Q20. Obey the laws
of the State.

1-23-63 Chambers, Albert D.

Q19. vote by secret
Q20. obey the laws
of the state.

1-28-63 Courtney, Alice E.

Q19. All people vote
by secret
Q20. Obey the law by
the State.

1-30-63 Bodin, Janice L.

Q19. I shall the the
right to vote secret
Q20. Obey the laws of
Mississippi

1-30-63 Farker, James Wayne

Q19. Vote should be
cast by secret ballot.
Q20. You should obey
the laws of the United
States.

[fol. 1866]

1-30-63 Entrekin, Ronald Mrs.

Q19. Vote by the
secret ballot when
I go in booth.
Q20. Obey the laws
of the State.

1-31-63 Rutland, Winnie A.

Q19. Enter the booth
and vote by secret
Q20. Obey all the
laws.

1-31-63 Bassar, Lila H.

Q19. By secret
Q20. Obey the laws

2-1-63 Cooper, Jasper A.

Q19. Will vote my
ticket by secret
Q20. Obey the laws
of the state

Date of Registration	Name	Q19. & Q20.
2-1-63	Harrington, Perry Lee	Q19. In order to elect some one a secret ballot must be cast. Q20. Obey all laws of the state.
2-4-63	Pittman, Martha Earline	Q19. all ballot shall be by secret Q20. Obet the laws od the state
2-4-63	McCray, Bernice A.	Q19. Vot my ballot by secret. Q20. Obey the laws of the State.
2-13-63	Gipson, James B.	Q19. All elections shall be by secret. Q20. Obey the laws of state.
[fol. 1867]		
4-8-63	Sistimk, Norma Jean	Q19. election shall be by ballot and secret. Q20. obey the law of the constitution
4-13-63	McMahon, Winston	Q19. You go in a booth to cast secret ballot. Q20. Obey the laws of the land.
5-8-63	Lott, Isabell B.	Q19. I will vote ballot by secret Q20. Obey the law of the state
Group 2 (2 registrants)		
1-4-63	Dearman, Doris C.	Q19. To lawfully vote, it must be by ballot Q20. under a constitutional form of government you are assured of protection by the law officials and the right to vote.
1-7-63	Gates, Franklin D.	Q19. To lawfully vote it must be by ballot Q20. Under a constitutional form of government you are assured of protection by the law officials and b the right to vote.

[fol. 1868]

Group 3 (2 registrants)

Date of
Registration Name
5-25-63 Piercy, Doris

Q19. & Q20.

Q19. Elections without ballot is unlawful.

Q20. Uphold the law of the State
Pay your taxes

5-25-63 Piercy, Danny Joe

Q19. An election without ballot is not lawful.

Q20. Pay your taxes
Up Hold the Law of your state.

Group 4 (2 registrants)

4-27-63 Broome, Duthel D.

Q19. All election must be held with ballot

Q20. All laws must be obeyed

4-27-63 Broome, Kermit S.

Q19. All election must be held with Ballot

Q20. All laws must be obeyed

Group 5 (2 registrants)

1-29-63 Ourstrat, Mary M.

Q19. People Elect all Canad tes by Votes & Ballots

Q20. A Citisne has to pay poll tax and register each year.

[fol. 1869]

1-29-63 Owenstreet, William Carl

Q19. people elect all candiat by vote and ballot.

Q20. A citian has to pay poll tax and register each year.

Group 6 (11 registrants)

In this group in answer to Question 19 the element of voting as one pleases appears in all of the forms. In answer to Question 20 all the applicants in this group have the element of obedience to law.

Date of
Registration Name
1-31-63 Blackwell, Mona Lee

Q19. & Q20.

Q19. It means that you vote by secret ballot so as to vote for whom you please without anyone knowing about it.

Q20. To obey the laws of the state.

Date of Registration	Name	Q19. & Q20.
1-31-63	Lee, Marilyn	Q19. Everybody is given a secret ballot in order to vote like you please. Q20. Support the laws.
1-31-63	Keith, Frances E. P.	Q19. It means that you (the people) have a right to elect by votes the person who they want to. Q20. To obey the laws of the state
[fol. 1870]		
2-1-63	Bourn, Milton	Q19. All persons are given a ballot to vote for whom they please, without everyone else knowing who they voted for. Q20. Obey all laws of the state and country.
2-1-63	Bourn, Marilyn J. A.	Q19. Every body is given a ballot to vote secret to vote for whom they please. Q20. Obey all the laws of the State, & County.
2-6-63	Hartfield, Margaret L.	Q19. When I go in to vote I will vote in secret and vote for whom I please Q20 That I will uphold the law
2-7-63	Couttry, John R.	Q19. When you vote by ballot you can vote like you please. Q20. Obey the laws of the state.
2-8-63	Riles, Roy James	Q19. Vote like you want to & for whom you please. Q20. obey the laws.
2-26-63	Whiddon, Mrs. Wilborn E.	Q19. Have the write to vote for whom I want to. Q20. Obey the laws of the state.
5-4-63	Lee, Mrs. Marshall	Q19. I will vote how I want to for who I want to by secret. Q20. Obey the laws of the state

[fol. 1871]

Date of
Registration Name
5-8-63 Hatten, Joan

Q19. & Q20.

Q19. I am going in
to vote for whom I
please the best
qualified and by
secret

Q20. I am suppose to
obey the laws in the
state.

Section 30

("There shall be no imprisonment for Debt.")

Group 1 (2 registrants)

Date of
Registration Name
1-12-63 McMahon, Horace Edgar

Q19. & Q20.

Q19. I shall not be
sent to prison for
the debts I make.

Q20. I understand my
duties as a citizen
and the laws of the
constitution that
protect me.

1-12-63 McMousen, Curtis Everett

Q19. I shall not go
to prison for a debt
I make.

Q20. I understnad my
duties as a good
citizen and laws of
the constitution that
protect me.

Group 2 (2 registrants)

12-27-62 Glasscock, James E.

Q19. Section 30 of the
constitution of Missis-
sippi states in effect,
that no one shall be
imprisoned (placed in
jail or prison) because of
amounts owed to an-
other individual or
individuals

[fol. 1872]

Q20. The citizen under
a constitutional form
of government has a
basis duty to uphold
the constitution as
it is written. He
also has subsidiary
duties of participat-
ing in government by
running for office,
voting and exhibiting

Date of
Registration Name

12-28-62 Howard, Robbie L.

Q19. & Q20.

and interest in his
government and his
country.

Q19. Section 30 means
that no one shall be
put in jail because
of amounts owed to
other individual or
individuals.

Q20. The citizen under
a constitutional form
of government a? duty
to uphold the constitu-
tion as it is written
He also has subsidiary
duties of participat-
ing in government by
running for office,
voting and exhibiting
an interest in his
government and country.

Group 3 (2 registrants)

7-5-63 Ladner, James E.

Q19. there shall be no
imprisonment for Debt.
Q20. Obey the laws
Pay your dept.

7-5-63 Ladner, Ray H.

Q19. there shall be no
imprisonment for debt.
Q20. obey the laws
pay year debt

[fol. 1873]

Group 4 (2 registrants)

4-29-63 Breshears, Georgia L.

Q19. A debt is not a
crime.
Q20. Obey the law of
the country.

4-29-63 Breshears, Thomas C.

Q19. A debt is not a
crime
Q20. Obay the laws of
the contry

Section 14

("No person shall be deprived of life, liberty, or property except by due process of law.")

Group 1 (2 registrants)

Date of
Registration Name

6-1-63 Bramlett, Carlson E.

Q19. & Q20.

Q19. Anyone should have a fair trial, to be sure they are guilty before they are punished

Q20. Anyone should vote, abide by the laws of the country, and be a good citizen

6-1-63 Bramlett, Mrs. Berta F.

Q19. Anyone should have a fair trial, to be sure they are guilty, before they are punished.

Q20. Anyone should vote, abide by the laws of the country, and be a good citizen

[fol. 1874]

Section 16

("Ex post facto laws, or laws impairing the obligation of contracts, shall not be passed.")

Group 1 (2 registrants)

Date of
Registration Name

7-12-62 Davis, Roland W.

Q19. & Q20.

Q19. Vested rights cannot be destroyed by the legislature creating a new cause of action no can it destroy a valid contract.

Q20. Obay the laws of our country and respect bthe rights of others.

7-20-62 Davis, Ethelyn K.

Q19. The legislature creating a new cause of action cannot destroy vested rights, nor can it destroy a valid contract.

Q20. Respect the rights of others and obey the laws of our country.

(3) Forms with verbatim or almost identical answers to Question 19.

Section 14

The following four registrants interpreted §14 in substantially the same manner as the registrants listed above in 3(a)(b)(1).

[fol. 1875]

Date of Registration	Name
9-28-60	Lowe, James Alexander
1-26-61	Barrett, Ben Wesley
1-6-62	Deen, Hester E.
1-23-62	Goor, Eula

[fol. 1876] Section 30

("There shall be no imprisonment for Debt.")

Group 1 (11 registrants)

The following applicants interpreted the section to mean "Debts are not a crime" or used very similar language.

Date of Registration	Name	Q19. & Q20.
2-19-63	Lott, Richard Lamar	Q19. debts are not a crime Q20. have protection of law
2-23-63	Lott, Mary Ernestine	Q19. Debt is not a crime Q20. Support the Law
2-27-63	Graham, Billy R.	Q19. Debts is not a crime Q20. Obey the law
3-8-63	Green, Mary I.	Q19. Debt is no crime Q20. Obey the law
3-23-63	Dement, Edwin W.	Q19. Debth is no crime. Q20. Obay the laws and pay your taxes.
4-29-63	Breshears, Thomas C.	Q19. A debt is not a crime Q20. Obay the laws of the contry
4-29-63	Breshears, Georgia L.	Q19. A debt is not a crime Q20. Obey the law of the country
[fol. 1877]		
6-7-63	Slade, Brenda Joyce H.	Q19. Debts shall be no crime. Q20. To obey the law and and pay your taxes.

Date of Registration	Name	
7-1-63	Patch, Jack M.	Q19. & Q20. Q19. Debt isn't a crime. Q20. A person has the protection of the police & other law enforcement officers and should obey the laws of our state.
7-5-63	Bounds, Margaret Elaine	Q19. Debt is not a crime. Q20. Obey the laws of our government and our constitution.
7-1-63	Lucas, Patricia Irene	Q19. Debt is not a crime. Q20. Support the government by paying my taxes.

Group 2 (9 registrants)

The following nine applicants interpreted the section by stating: "Debts create no crime," or language similar thereto.

Date of Registration	Name	
1-19-63	Overstrut, Earl Lavon	Q19. & Q20. Q19. debts create no crimes Q20. Obey all laws.
1-26-63	Dixon, James E.	Q19. It creates no crime Q20. To obey the laws of the State and United States.
[fol. 1878]		
1-31-63	Simmons, Gladys G.	Q19. Debts create no crime. Q20. To obey the laws.
2-9-63	Lundy, James H.	Q19. Debt create no crime. Q20. Bide by the law or laws.
2-21-63	Jones, Darlis	Q19. Debts do not create any crime. Q20. Support all laws.
3-18-63	Gore, Henry A.	Q19. Debts create no crime. Q20. Obey the laws.
3-25-62	Hartfield, G.W.	Q19. Debts create no crime Q20. uphold the law of the state.
6-28-63	Brun, Wayne P.	Q19. debts create no crime Q20. to follow & uphold the constitution.

Date of
Registration Name
6-28-63 Hartfield, Bonnie J.

Q19. & Q20.

Q19. Debts create no crime.

Q20. You are entitled to the full protection of the laws. You are free to worship as you choose you pay your taxes.

[fol. 1879]

Section 240

("All elections by the people shall be by ballot.")

Group 1 (7 applicants)

The following applicants include in their interpretation a statement to the effect that "public elections" shall be "void" if not by ballot.

Date of
Registration Name
2-4-63 Miller, Charlene

Q19. & Q20.

Q19. My vote by ballot is secret Public Elections by the people shall be void if not Held by Ballot

Q20. A citizen should support the laws and help willingly in the Financial support of a constitutional form of government in return for its political rights.

5-18-63 Overstreet, Mrs.
William C. Jr.

Q19. Public election shall be void if not held by ballot.

Q20. Obey the laws of the State.

5-23-63 Robertson, Alice M.

Q19. Public election by the people shall be void if not held by ballot.

Q20. Obey the laws of our government and our constitution.

[fol. 1880]

6-17-63 Salter, Davis Earl

Q19. Public elections by the people shall be void if not held by ballot.

Q20. It is the duty and obligations of a person to ballot in each election to maintain a constitutional form of government.

1216

Date of Registration	Name
6-20-63	Anderson, Roger D.

Q19. & Q20

Q19. Public elections
shall be void if not
held by ballot

Q20. Obey the law of
our State

6-21-63	Russell, Bobby T.
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Q19. Public election,
by the people shall be
void if not held by
ballot.

Q20. Obey the laws of
our government.

6-26-63	Saucier, Marie H.
---------	-------------------

Q19. Public election
by the people shall
be void if not held
by ballot.

Q20. Obey the Laws of
the State.

Group 2 (13 registrants)

The following applicants include in their interpretation
the statement that if not by ballot an election would be
"void."

[fol. 1881]

Date of Registration	Name
-------------------------	------

1-31-63	Howell, Sarah R. R.
---------	---------------------

4-23-63	Bond, Claude E. Jr.
---------	---------------------

6-21-63	Breazeale, N. A.
---------	------------------

6-21-63	Smith, Mary Lou
---------	-----------------

6-25-63	Smith, Jimmie Marie
---------	---------------------

6-28-63	Johnson, Donna L.
---------	-------------------

6-28-63	Stuart, Wilmer J.
---------	-------------------

6-28-63	Green, Samuel C.
---------	------------------

7-5-63	Couden, Clevera Mrs.
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7-5-63	Noleles, Charles W. Mrs.
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7-5-63	Mills, Shirley Rose S.
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7-5-63	Stringer, Grady, Mrs.
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7-5-63	Morgan, Billy Richard
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Group 3 (7 registrants)

The following applicants include in their interpreta-
tion the statement that if not by ballot an election would
be "illegal".

Date of
Registration

Name

11-9-62
4-16-63
4-19-63
5-8-63
5-8-63
5-31-63
6-6-63

Walker, Linda C. H.
Tatum, Bernice F.
Stephens, Doris O
Bryant, Lois
Graves, Ruby Lee
Anderson, James D.
Anderson, Harry Jr. Mrs.

Group 4 (10 registrants)

The following applicants include their interpretation
the statement that if not by ballot an election is, or would
be, "unlawful".

Date of
Registration

Name

6-4-62
9-23-62
10-6-62
10-11-62
1-21-63
1-23-63
3-13-63
4-12-63
5-8-63
6-6-63

Pierce, T. B.
McDonald, Bertis Lemon
Bryant, Joe E.
Hendrix, William S.
Carter, Thomas A.
Simmons, Edgar A.
Graham, Maybell
Hartfield, Robert S.
Creel, Ernestine Mrs.
Anderson, Harry H. Jr.

[fol. 1882] Group 5 (3 applicants)

The following applicants interpret the section in a simi-
larly awkward manner.

Date of
Registration Name

11-8-62 Cresorg, Gerald C.

Q.19 & Q.20

Q19. I think the way
that to vote for the
best man for that Job,
and also what he says
he will by ballot.

Q20. You must obey
the laws and as the
state and be loyl to
your fellow man.

1218

Date of Registration	Name
11-9-62	Hagenson, Bernice J.

Q19. & Q20.

Q19. Vote for the best man for the office and do what he says by ballot.

Q20. Obey the laws of the state and be loyal to your fellow man.

11-9-62	Lane, Myrtle
---------	--------------

Q19. Vote for the best man for the office and do what he says by ballot.

Q20. Obey all laws.

[fol. 1883]

Date of Registration

Name

1-21-63

1-23-63

3-13-63

4-12-63

5-8-63

6-6-63

Carter, Thomas A.

Simmons, Edgar A.

Graham, Maybell

Hartfield, Robert S.

Creel, Ernestine Mrs.

Anderson, Harry H. Jr.

Group 5 (3 applicants)

The following applicants interpret the section in a similarly awkward manner.

Date of Registration	Name
11-8-62	Cresorg, Gerald C.

Interpretation

Q19. I think the way that to vote for the best man for that Job, and also what he says he will by ballot.

11-9-62	Lane, Myrtle
---------	--------------

Q19. Vote for the best man for the office and do what he says by ballot.

11-9-62	Hagenson, Bernice J.
---------	----------------------

Q19. Vote for the best man for the office and do what he says by ballot.

4. Forms with verbatim or almost identical answers to question 20.

The following registrants answered question 20 (duties and obligations of citizenship) with the statement "obey the law" or its plural form. It should be noted that some of these applicants in this and the following groups are also listed in the categories describing assistance in questions 19 and 20.

Date of
Registration

Name

1-23-62

Goor, Eula

9-1-62

Hughes, Billy F.

9-1-62

Jones, Alton R.

9-14-62

Newton, Alice Ann T.

9-23-62

Bryant, Joe E.

[fol. 1884]

10-6-62

McDonald, Bertis Lemon

10-12-62

Rhodes, Eunice Roberta

10-20-62

Davis, Huey B.

10-23-62

Stafford, Melvin

11-20-62

Clinton, Glyn E.

12-18-62

Mims, Alvin D. Jr.

12-20-62

Lucas, Curtis W.

1-2-63

Webb, Doris M.

1-4-63

Haddox, Ray

1-12-63

Carroll, Delmer

1-14-63

Lamarheuss, William

1-20-63

Miller, Carrie Lane

1-28-63

West, Elizabeth A.

1-30-63

Aultman, Price A.

1-31-63

Bassar, Lila H.

2-8-63

Riles, Roy James

2-15-63

Beach, Cecil D.

2-27-63

Graham, Billy R.

3-8-63

Green, Mary L.

3-18-63

Gore, Henry A.

4-17-63

Dement, Kermit F.

4-20-63

Smith, Gerald N.

5-25-63

Green, Maud E. Mrs.

6-8-63

Boone, Delores V.

6-10-63

Brown, Carol P.

6-27-63

Smith, Lillian V.

[fol. 1885] The following registrants answered question 20 with the statement "Obey the laws of the state".

Date of Registration	Name
5-7-63	Bilbo, Sherry Mrs.
1-22-63	Bynun, Rankin G.
2-7-63	Couttry, John R.
1-23-63	Chambers, Albert D.
2-5-63	Crews, James W.
2-1-63	Cooper, Jasper A.
1-30-63	Entrekin, Ronald Mrs.
5-8-63	Lott, Isabell B.
4-19-63	Lowe, Shirley Roy
5-4-63	Lee, Mrs. Marshall
2-1-63	Morris, Juanita J.
1-29-63	McRaney, Gale Leonard
2-4-63	McCray, Bernice A.
2-5-63	McCraw, Jimmie Ray
1-12-63	Mellwain, William J.
5-18-63	Overstreet, William C. Jr. Mrs.
2-4-63	Pittman, Martha Earline
2-26-63	Steele, Louis M.
1-10-63	Swann, Carolyn Donnette
6-26-63	Saucier, Marie H.
2-26-63	Whiddon, Mrs. Wilborn E.

[fol. 1886] The following registrants answered question 20 with the statement: "To obey the laws of the state."

Date of Registration	Name
9-14-62	Yarbrough, Willie J.
1-9-63	Anderson, Clifton
1-22-63	Smith, Brenda H.
1-31-63	Blackwell, Mona Lee
1-31-63	Keith, Frances E. P.
2-11-63	Bond, Robert R.

[fol. 1887] The following registrants answered question 20 with the statement: "Obey the law of our state" or its plural form

Date of
Registration

Name

4-9-63

Casanova, Alma G.

6-7-63

Knue, Charlotte A.

6-20-63

Anderson, Roger D.

6-21-63

Breazeale, N. A.

6-28-63

Johnson, Donna L.

6-31-63

Anderson, John P.

7-5-63

Stringer, Grady, Mrs.

7-5-61

Morgan, Billy Richard

[fol. 1888] The following registrants answered question 20 with the statement: "Obey all laws of the state."

Date of
Registration

Name

2-1-63

Harrington, Perry Lee

6-10-63

Dearman, Eula L.

[fol. 1889] The following registrants answered question 20 with the statement: "Obey all law" or its plural form

Date of
Registration

Name

10-9-62

Rhodes, Thomas Glenn

10-30-62

Miller, Howard Reece

11-9-62

Lane, Myrtle

1-19-63

Overstrut, Earl Lavon

5-8-63

Lott, Mrs. Charles

6-15-63

Bullock, Roy E.

[fol. 1890] The following registrants answered question 20 with the statement: "Obey the laws, pay your taxes" or some minor variant thereof.

Date of
Registration Name

Q. 20

2-2-63 Anderson, Lucille

Pay you tax and
obay your laws.

3-23-63 Dement, Edwin W.

Obay the laws and
pay your taxes.

Date of Registration	Name	Q19. & Q20.
4-1-63	Anderson, Dorothy A.	Obey the law and pay you taxes.
4-23-63	Bond, Claude E. Jr.	Pay taxes & obey laws.
5-13-63	Davis, Laguita	Pay the taxes Obay the law
6-6-63	Anderson, Harry H. Jr.	obey the Laws pay your taxes
6-66-3	Anderson, Harry Jr. Mrs.	Obey the law and pay your taxes.
6-7-63	Slade, Brenda Joyce H.	To obey the law and pay your taxes.
6-9-63	Hatten Barbara J.	Obey the laws, and pay your taxes.
6-12-63	Bates, Doris M.	Obey the law's and pay your taxes
6-15-63	McCarter, James Lewis	Obey the laws and pay the taxes.
6-22-63	Smith, Patsy G.	Abey lawes and pay tax
6-24-63	Bounds, Frances	Pay your taxes and obey the laws.
7-1-63	Ledbetter, Zora Pearl	Pay taxes and obey the laws.

[fol. 1891] The following registrants answered question 20 with a statement whose essence is that one enjoys the protection of law.

Date of Registration	Name	Q. 20
1-11-63	Hatten, Millie L.	You have the procteh of law.
1-21-63	Carter, Thomas A.	To have protection of the law.
1-22-63.	Madden, Joll Kenneth	you have the per-tecton of the law
1-25-63	Herrington, Leland R.	Just pertaxson of laws.
1-26-63	Bond, Janie W. L.	It gives protection of law.
2-19-63	Lott, Richard Lamar	have protection of law
6-28-63	Swilley, Marie	You have the protec-tion of law.

[fol. 1892]

C. Grading

(1) Recopying of section as interpretation

The following registrants merely recopied the section assigned them as their answer to question 19.

Date of
Registration

Name

11-4-62

Plant, Peggy Cale

11-7-62

Fowler, Gordan E.

2-1-63

Morris, Joe T.

2-5-63

Crews, James W.

4-17-63

Dement, Kermit F.

[fol. 1893] (2) Interpretations which are non-responsive to the section

The following registrants had unresponsive answers for their interpretations of section 30.

Date of
Registration

Name

Q. 19

1-12-63

Carroll, Delmer

Their shall not be
no vilets are other
thangs to happen.

1-25-63

Herrington, Leland R.

If the Mane is not
able to work

2-9-63

Degeyter, Larry

This means that if
you should work for a
company and they
wouldn't pay you the
right wages are fail
to pay you. They would
be violuating section
30.

2-18-63

Hartfield, Glenn G.

There shll be no
imprisonment money or
taxes and

2-21-63

Simmmons, Gary Carl

personal survivorship

4-4-63

Downing, Jeanette Mrs.

No one can be imprison
unless they have
brake the law

4-7-63

Brewer, Angieleau

Obey the law of our
land

6-11-63

Smith, Thomas Albert, Jr.

It is not against the
law to buy something
on credit.

6-22-63

Lott, Charles Lamar

No person shall be
deprived of life,
liberty or property
except by due process
of law.

[fol. 1894]

Walthall #76

Part I

A

The following Negro citizens of Walthall County were not permitted to apply to register to vote. All events described below occurred at the Circuit Clerk's office in Walthall County.

- | | | |
|-------|-------------|--|
| 74021 | Sept., | He went to apply to register with |
| 74026 | 1960 | three other Negroes. Mrs. Wilson |
| | Refused | said the books were closed until after |
| | Wilson-D.C. | 1960 election. |
| 74001 | Sept., | He went to register with three other |
| | 1960 | Negroes. Mrs. Wilson said the books |
| | Refused | were closed four months prior to the |
| | Wilson-D.C. | election. |
| 74000 | Sept., | He went to register with Luther Guy, |
| | 1960 | Robert Bryant, and Flutcher Magee. |
| | Refused | Mrs. Wilson told them the books |
| | Wilson-D.C. | were closed and would not be open |
| | | until after the November election. |
| 74011 | Sept., | He went to register with three other |
| | 1960 | Negroes (John Ball, Flutcher Magee, |
| | Refused | and Robert Bryant). Mrs. Wilson |
| | Wilson-D.C. | told them the books were closed until |
| | | after the November election. |
| 74023 | Sept., | Mrs. Wilson told Magee and three |
| | 1960 | companions that the books were |
| | Refused | closed four months prior to the elec- |
| | Wilson-D.C. | tion. |
| 74022 | Sept., | He went with three other Negroes to |
| | 1960 | register and to get poll tax exemp- |
| | Refused | tion. Mrs. Wilson told them the |
| | Wilson-D.C. | books were closed for four months |
| | | prior to the November election. She |
| | | said that they did not need poll tax |
| | | exemptions to register. |

[fol. 1895]

- 74020 Winter
1960
Refused
Wilson-D.C. Mrs. Wilson told Magee and three companions that Byrd was ill and that she could not register anyone.
- 74001 Jan.,
1961
Refused
Byrd-R He went with Lutchies Magee and asked to register. Byrd told him he was too sick to register anyone that day.
- 74000 Jan. or
Feb.,
1961
Wilson-D.C.
Byrd-R He went with Robert Magee and asked sheriff for poll tax exemption. Sheriff sent them to Circuit Clerk's office. Mrs. Wilson told them to wait for Byrd. They asked Byrd for poll tax exemption and asked to register. Byrd said no poll tax exemption would be issued until registration time and they could not register, since no elections were coming up.
- 74011 Jan. or
Feb.,
1961
Refused
Wilson-D.C. He went to register with Easley Walker. Walker got a form but he was told to come back after lunch. He returned but Mrs. Wilson was not there, so he left.
- 74021 Jan.,
74026 1961
Byrd-R
Wilson-D.C. Magee went to register with John Ball and asked for poll tax exemption so that he could register. Mrs. Wilson said Byrd would have to see him. Byrd asked him why he wanted it. Magee said he wanted to register. Byrd said he could not because no election was coming up and would not give him a poll tax exemption certificate.
- 74023 Jan.,
1961
Refused
Byrd-R Byrd told him and Robert Bryant that they could not and need not register since no election was coming up.

[fol. 1896]

- 74028 Feb.,
1961
Refused
Wilson-D.C. Raiford went to register and secure a poll tax exemption. Mrs. Wilson said it was not time for voting and that no application blanks were available.
- 74013 Aug.,
1961
Refused
Wood-R Mr. Guy went up to try to register with William Guy and Fletcher Magee. Jimmy Travis accompanied them to the Courthouse. Wood said he had to go to a Board of Supervisors Meeting and could not fool with them.
- 74022 Aug.,
1961
Refused
Wood-R He went with Walter Guy and William Guy. Wood said he was too busy and had to go to a Board of Supervisors Meeting and did not let them register.
- 74035 8/30/61
Refused
Wood-R Walker went to Courthouse with Ruby Magee and three other Negroes. He waited outside several hours without being permitted to fill out a form. He left without doing so.
- 74014 9/6/61
Refused
Wood-R We went with Fletcher Magee and Walter Guy, in the company of John Hardy. Wood told them he was too busy to fool with them and would not tell them when they could come back.
- 74016 9/6/61
Refused
Wood-R Miss Howard went to register alone. Wood asked her age and if she had proof. He did not give her a form and Miss Howard, after waiting about twenty minutes, left.
- 74027 9/7/61
Refused
Wood-R She went to apply with Lucius Wilson, John Hardy, voter registration worker, was present. Wood declined to allow Wilson or Mrs. Peters to apply for registration because they already had him in court and hit Hardy with a gun.

[fol. 1897]

74036 9/7/61
Refused
Wood-R

He went to register with Mrs. Peters, accompanied by John Hardy. Wood did not permit them to register and said they already had him in court. Wood hit Hardy with a gun.

B

The following Negro citizens of Walthall County were intimidated or deterred from applying to register to vote in Walthall County. All events described below occurred in Walthall County.

74034 8/30/61
Deterred
Wood-R

Turner accompanied Ruby Magee, a college student, and Sidney Ellzey, a former teacher, and two other Negroes to Registrar's office. He had attended voter registration meetings. After seeing that Ruby Magee and Sidney Ellzey could not pass, he made no attempt to register.

74015 9/7/61
Deterred
Wood-R

Hardy, a voter registration worker for SNCC, accompanied Lucious Wilson and Edith Peters to Wood's office. When Wood discovered he was the Negro voter registration worker he ordered him from the office and struck him on the back of the head with a gun as he was leaving. This happened in the presence of Lucious Wilson and Edith Peters.

74019 9/7/61
Deterred
Man

He is a student SNCC worker. He went to the Courthouse to investigate the arrest of John Hardy. A hostile crowd gathered and one man threatened to strike him. He got to see the Sheriff who told him the voter workers were fools—none of the teachers with higher educations were trying to teach the Negroes to register. The sheriff also said that Ruby Magee knew more about the

[fol. 1898]

74019 9/7/61
(Con't) Deterred
Man

Constitution than Wood himself but Negroes weren't getting registered. After he left the Courthouse, a white man threatened to run him over and threatened him with a gun. Robert Bryant, John Ball and other Negroes witnessed this.

74004 Sept.,
1961
Deterred
Wood-R

Miss Dillon, a college student, decided to register after discussing the matter with John Hardy. She had planned to try on September 9, 1961. After learning what had happened to Hardy on September 7, she decided not to go.

74006 Sept.,
1961
Deterred
Wood-R

During August, 1961, Dillon went to classes given by John Hardy and others to learn how to register. He planned to apply for registration. After he heard of Wood's assault on Hardy, he became frightened and did not apply.

74018 Sept.,
1961
Deterred
Wood-R

Lewis went to voter registration classes taught by John Hardy. He intended to register. After he learned of the incident between Hardy and Wood, he decided not to try.

74024 9/7/61
Deterred
Wood-R

He was learning how to register from John Hardy and other SNCC personnel, and intended to register. After the assault on Hardy, he decided not to go back until the matter was straightened out.

74032 Sept.,
1961
Deterred
Wood-R

Miss Simons had intended to register to vote. After it became common knowledge that Circuit Clerk Wood had hit John Hardy, she decided not to attempt to register.

[fol. 1899]

74005 Sept.,
1961
Deterred
Wood-R

During August, 1961, she went to voter registration classes taught by John Hardy. She had intended to apply for registration. After Wood struck Hardy on the head, she decided not to go.

C

The following Negro citizens of Walthall County were not permitted to register to vote because their interpretations did not satisfy the registrar. All evens described below occurred at the Circuit Clerk's office in Walthall County.

74041 5/24/55
Rejected
Byrd-R

Tolbert went alone to register. Received Section 190 (eminent domain) to interpret. Filled out rest of form but was unable to interpret that section. Byrd told him to go home and study.

74039 1/28/56
Rejected
Byrd-R

Mrs. Dunham, a Negro school teacher, applied alone. Rev. James May (Negro) was present. She was required to interpret Section 190 of the Constitution (eminent domain), ex post facto laws, and impeachment. Byrd said he would notify her in thirty days as to the result of the application, but never did so. She was rejected because her interpretation of these three sections did not satisfy the registrar.

74031 4/15/58
Rejected
Byrd-R

Simmons told Byrd he wanted to register. In answer to Byrd's question, he said he preferred a short section. He received Section 104 (Statutes of limitations against municipalities). He received no assistance except that Byrd told him where to sign. He never learned the result of the examination. He was rejected.

[fol. 1900]

74007 8/30/61
Rejected
Wood-R

Ellzey, a former Negro school teacher, went to apply with Ruby Magee and three other Negroes. He waited half an hour and Wood took Miss Magee and himself one at a time. He received Section 53 to interpret. Wood gave him no assistance. When he finished the form, Wood told him he had not made it.

74025 8/30/61
Rejected
Wood-R

Miss Magee went to apply with five other Negroes. After some delay, she was given Section 165 to interpret. Wood told her her interpretation and her precinct were wrong. He wrote on the form that she was only twenty. Wood registered Miss Magee during the trial of *United States v. Wood*, April 8, 1963.

[fol. 1901]

Walthall #76

Part II

Application Forms

1. & 2. Number and Period of Application Forms

The first form in Walthall County is dated April 14, 1955. The last form is dated April 1, 1963. The forms by race during this period are as follows:

	Accepted	Rejected	Pending
White	1,124	2	54
Negro	2	7*	0

* One Negro who was originally rejected was rejected during the trial of *United States v. Wood* in April 1963. Also, the race of two applicants who filled out forms in 1960 but did not sign the Registration Book is unknown.

No Negro was accepted, and no known white applicant rejected, until September 25-27, 1961, during which period two Negroes were rejected and one white applicant accepted. This three-day period was between two hearings in a voter intimidation case brought by the United States against Registrar Wood under 42 U.S.C. 1971(b).

3. Analysis of Forms

(a). Selection of Constitutional sections

(1) The following table represents the incidence by race of the sections of the Constitution during the period April 14, 1955, through April 1, 1963:

[1902]

Section	W	N	Section	W	N	Section	W	N
1	1		73	8		156	1	
2	2		74	1		157	1	
5	3		75	20		158	7	
6	1		76	1	1	162	8	
7	2		80	1		163	1	
8	2		81	1		164	23	
9	18	1	83	3		165	2	1
10	1		84	1		166	4	
11	10		86	4		167	7	
12	2		91	1		168	1	
13	1		92	12		172	5	
14	122		93	20		173	1	
15	3		96	1		174	5	
19	1		98	1		175	5	
20	20		101	5		176	4	
21		1	104		1	185	1	
22	10		105	2		188	2	
23	1		106	1		189	2	
24	6		108	22		190		2*
25	6		113	1		191	3	
28	26		114	3		192	1	
29	3		116	3		195	3	
30	180		117	6		196	1	
31	1		118	3		201	1	
33	10		119	3		202	1	
34	1		120	2		203	1	
35	28		122	7		205	5	
36	1		123	36		207	34	
37	9		125	1		208	3	
38	5		126	9		209	12	
39	13		127	2		210	1	
41	2		128	5		214	3	
42	1		129	2		215	3	
43	3		130	11		216	1	
45	1		132	1		217	2	
46	1		134	1		218	2	
47	2		135	1		219	4	
48	2		136	3		220	2	
49	2		138	3		221	1	
50	1		139	1		223	1	
53		2	141	1		226	2	
56	1		142	2		231	2	
57	2		143	5		232	1	
58		1	146	2		237	1	
61	1		148	17		238	1	
62	1		150	10		239	1	
65	1		151	1		240	12	
67	69		152	23		245	1	
68	3		153	4		247	4	
70	3		154	1		248	1	

* One of the Negroes who was assigned Section 190 was also required to explain impeachment and ex post facto laws. She was rejected for registration.

[fol. 1903]

Section	W	N
249	1	
250	18	
253	1	
257	6	
258	1	
259	4	
261	1	
263	4	
264	4	
265	23	
267	1	
271	2	
Unknown	8	

(2) The following shows the incidence by race of sections of the Constitution assigned to Negro applicants:

Sec.	Subject Matter	Negroes	White
9	Military subordination to civil power	1	17
31	Suspension of writ of habeas corpus	2	0
53	Removal of judges for cause insufficient for impeachment—Procedure	2	0
58	Doors of house open—contemptuous behavior—committee of the whole	1	0
76	Legislature votes viva voce	1	1
104	Statute of limitations—inapplicability to state or municipal corporations—Governor's messages to legislature	1	0
122	Recommendation of expedient measure	1	7
165	Disqualification of judges for consanguinity, etc.	1	2
190	Eminent domain—no abridgment—property and franchise of incorporated companies	2	0

The only two sections assigned to Negroes which were also assigned to whites in more than token numbers were Sections 9 and 122. The Negroes to whom these sections were assigned, Ezra Conerly and Milton Huey, were the only two Negroes accepted for registration prior to the [fol. 1904] trial of the case of *U.S. v. State of Mississippi* in April 1963. Both were registered in September 1961, during the period between two hearings in the case of *U.S. v. Wood*, a voter intimidation case against the registrar in Walthall County.

Only two of the sections assigned to rejected Negroes (76 and 165) were assigned to whites, and a total of three white applicants received these sections. Each of these three white applicants received his section after it had been assigned to a Negro. *Not a single rejected Negro applicant was assigned a section which had ever been given to a white applicant before.*

(3) The ten sections of the Mississippi Constitution most commonly assigned to white applicants, all relatively short and easy except Section 14 dealing with due process, which 42 of the whites simply recopied) were never assigned to Negroes at all. These ten sections were assigned to 554 white applicants, approximately half of the total. Their incidence was:

Sec.	Subject Matter	Negroes	White
30	There shall be no imprisonment for debt	0	180
14	No person shall be deprived of life, liberty, or property except by due process of law	0	122
67	No bill shall be introduced into either house of the legislature during the last three days of the session	0	69
207	Separate schools shall be maintained for children of the white and colored races	0	34
123	The governor shall see that the laws are faithfully executed	0	36
35	The senate shall consist of members chosen every four years by the qualified electors of the several districts	0	28
28	Cruel or unusual punishment shall not be inflicted, nor excessive fines be imposed	0	26

[fol. 1905] Of the 1,180 white applicants, a total of 1,153 (approximately 98%) received sections of the Constitution never assigned to Negroes.

(4) Section 190 of the Mississippi Constitution reads as follows:

The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the legislature from taking the property and franchise of incorporated companies and subjecting them to public use; and the exercise of the police powers of the state shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe upon the rights of individuals or general well-being of the state.

The first two Negroes in Walthall County who were permitted to fill out application forms were assigned this section to interpret.

Agee Tolbert received Section 190 on May 21, 1955, was unable to interpret it, and failed. During the period from May 10, 1955, to June 6, 1955, 45 white persons filled out application forms and 43 of them received Section 14 (due

process). All 45 were accepted. Twenty-five of these white applicants simply recopied the section verbatim.

Mrs. Melverson Guy Dunham received Section 190 on January 28, 1956. On the same day, of two white applicants, one received Section 30 and recopied it verbatim (There shall be no imprisonment for debt) and the other received Section 108 (salary of officer ceases when duties cease). No white person received Section 190 [fol. 1906] or any section of comparable difficulty during the period surrounding Mrs. Dunham's form.

In addition to interpreting Section 190, Mrs. Dunham was required to answer the following questions:

"What are "Ex Post Facto Law" and when can one be passed in Mississippi. Explain fully";

and

"Define "impeachment" and who has the sole power in this State?"

She was the only applicant in Walthall County to be asked such additional questions. Mrs. Dunham's application for registration was rejected.

b. Assistance to White Applicants

J. M. Byrd was Registrar of Voters in Walthall County from the beginning of the period when forms were used until August 1961, when John Q. Wood was elected following Byrd's death. At the trial of the case of *United States v. Mississippi*, Mr. Wood testified that he assisted these white applicants who needed help with question. The furnishing of such assistance on a massive scale is reflected both under Wood and under Byrd by the tables of identical and similar forms set forth below.

(1) Interpretation Test

By Registrar Byrd

Section 30 of the Mississippi Constitution provides:
"There shall be no imprisonment for debt."

[fol. 1907] The following 25 accepted white applicants wrote the following verbatim interpretation of Section 30:

No person should be imprisoned because he owes a debt.

All of them also had standard statements of the duties and obligations of citizenship.

Name of Applicant	Date of Application
Blam, Mrs. H. L.	4-29-55
Brock, Mrs. Johnnie	6-29-55
Waldrop, Ronnie L.	6-29-55
Ratcliff, Mrs. James W.	7-1-55
Burnette, Mrs. Gerald	7-2-55
Phillips, Flora Mae	7-2-55
Foches, Mrs. John A.	7-5-55
Gartman, Mrs. V. L.	7-5-55
Hightower, Bud	7-5-55
Hightower, Hugh C.	7-5-55
Hightower, Lewis	7-5-55
Stringer, Mrs. Johnie	7-5-55
Dunaway, Mrs. Elda	7-6-55
Goings, Ellene Ollie J.	7-6-55
Cathern, Marvie	7-7-55
Conerly, Monroe	7-7-55
Conerly, Quida D.	7-7-55
Duncan, Mrs. Albert	7-7-55
McKenzie, Mrs. James	7-7-55
Morris, Mrs. James	7-7-55
Boyd, Mrs. A. W.	7-8-55
Simmons, Mrs. John P.	7-8-55
Stuvall, Mrs. J. T.	7-8-55
Thomas, Mrs. Christine	7-8-55
Dier, Junior	7-8-55

The following 10 accepted white applicants wrote as their interpretation of Section 30 a very slight variation of the standard in Group 1, above, as follows:

No person shall be imprisoned because he owes a debt. All of them also had standard statements of the duties and obligations of citizenship. All applied between June 18 and July 27, 1955.

[fol. 1908] Name of Applicant	Date of Application
Graves, Pauline	6-18-55
Howell, Mrs. Dorothy J.	6-23-55
Ard, Johnnie Lou	6-25-55
Holmes, Mrs. Hixton	6-28-55
Ballard, James R.	6-29-55
Thomas, Joe D.	6-29-55
Forbes, John A.	7-5-55
Pope, Frances (Mrs. Gueid)	7-8-55
Wallace, Mrs. Willene	7-8-55
Robbins, Winston F.	7-27-55

The following 18 accepted applicants wrote the following slight variation of the standard interpretation in Groups 1 and 2:

No person can be imprisoned because he owes a debt. Fifteen of them also wrote one or another of several standard statements of the duties and obligations of citizenship.

Name of Applicant	Date of Application
Boyd, Mary	6-25-55
Martin, Carl W.	6-27-55
Berry, Delores	6-30-55
Patten, Ina L.	1-14-56
Lawrence, Harold D.	5-21-56
McKenzie, Mrs. J. R., Jr.	2-26-57
Smith, Charles E.	9-14-57
McCain, Ada M. (Barber)	12-22-58
Forbee, Earl E.	3-5-59
Edwin, Josephy W.	3-10-59
Thomas, Lillian C.	3-30-59
Ryals, Frances E.	4-7-59
Fortenberry, Mrs. C. E.	4-10-59
Fortenberry, Mrs. Mary L. L.	4-21-59
Papwell, Louise	4-25-59
Alford, Mrs. Cletes	6-5-59
McCain, Mrs. James D.	6-15-59
Roberts, Mrs. Perry, Jr.	7-2-59

[fol. 1909] The following 7 accepted white applicants wrote the following slight variation of the above standard interpretations:

No person should be put in prison because he owes a debt.

Five also wrote standard statements of the duties and obligations of citizenship:

Name of Applicant	Date of Application
Seago, Billie F.	6-15-55
Gerald, Fannie	6-20-55
Morris, Mrs. L. W.	6-24-55
Breland, Mrs. Toxie	6-25-55
Breland, Toxie H.	6-25-55
Holmes, Lester W.	7-5-55
Brock, Mrs. Samuel	7-8-55

The following 10 accepted white applicants wrote the following slight variation from the above standard interpretations:

No person can be put in prison because he owes a debt. Seven also wrote one or another of several standard statements of the duties and obligations of citizenship:

Name of Applicant	Date of Application
Boyd, Bobby J.	6-15-55
Johnson, Mrs. Clifton	6-18-55
Boyd, Mrs. Glen	7-5-55
Brumfield, Mrs. Altus	1-14-56
Brumfield, Altus	10-1-56
Foil, Mrs. Thomas E.	5-1-59
Stringer, John F.	6-1-59
Pierce, Julius	6-26-59
Bates, Veta N.	6-30-59
Sorrell, Chalmes	1-2-60

[fol. 1910] The following four accepted white applicants wrote the following variation of the above standard interpretations of Section 30, all between May 16 and June 26,

1959. All of them also wrote standard statement of the duties and obligations of citizenship:

Name of Applicant	Date of Application
Lee, Beulah	5-16-59
Dunaway, Enoch O.	5-27-59
Denwolf, Martin	5-30-59
Ball, Gabell	6-26-59

The following nine accepted white applicants simply re-copied Section 30 as their interpretation of Section 30. Eight wrote one or another of two standard statements of the duties and obligations of citizenship. A ninth, Alton Ard, cannot write legibly but apparently attempted to write "law-abiding," which is the gist of one of these standard statements.

Name of Applicant	Date of Application
Magee, Charlie W.	9-11-55
Slocum, Mrs. Mentoria	6-18-55
Ard, Alton	6-20-55
O'Quinn, Jack D.	7-2-55
Edwards, Hollis O.	7-6-55
Johnson, Edna L.	7-7-55
Holmes, Mrs. Lester	7-3-55
Swan, Bob T.	7-20-55
Stewart, William S.	1-28-56

Section 14 of the Mississippi Constitution reads as follows:

"No person shall be deprived of life, liberty or property except by due process of law."

The following 42 accepted white applicants, 35 of whom applied between May 13 and July 7, 1955, simply [fol. 1911] re-copied the section for their interpretation. Thirty-one of them had statements of duties and obligations identical or extremely similar to those of other applicants:

Name of Applicant	Date of Application
Howell, Donald	5-13-55
Lee, Mrs. Douglas	5-13-55

Name of Applicant	Date of Application
Turnage, Ralph E.	5-13-55
Herring, Norma Lou	5-14-55
Pittman, Helen J.	5-14-55
Smith, Vera L.	5-14-55
Vortiach, Jim E.	5-16-55
Alexander, Dorothy Mae	5-17-55
Breland, Robert E.	5-20-55
Ellis, Devon	5-20-55
Ellis, Joy Faye	5-21-55
Dunaway, Leslie	5-21-55
Ellis, Charlene	5-21-55
McElveen, Sarah	5-30-55
Rials, Mrs. M. E.	5-30-55
Lee, Douglas E.	6-1-55
Rushing, Audine	6-2-55
Rushing, Paul	6-2-55
Wood, Mrs. Bobbie E.	6-3-55
Crawford, Logan A.	6-4-55
Ginn, Osborne	6-4-55
Howell, William H.	6-4-55
Thomas, Sallie	6-4-55
Brown, Ethel A.	6-6-55
Duncan, Duroe	6-6-55
Whiddon, Ruby Marie	6-8-55
Dunaway, Mrs. Devoy E.	6-10-55
Stogner, Jessie L.	6-10-55
Dillon, Jimmie T.	6-11-55
Dykes, Melba	6-11-55
Cothorn, Mrs. Welton D.	6-18-55
Moseley, Elthabye	7-2-55
O'Quinn, Glen B.	7-2-55
Lewis, Mary E.	7-4-55
Alford, Mrs. James T.	7-7-55
Crain, Bobby Ray	12-31-55
Thomas, Gladys T.	1-13-56
Thomas, Marcus S.	1-13-56
Beard, Ruth H.	12-4-56
Bracey, Frances Joyce	3-18-57
Smith, Douglas M.	1-17-59
Brown, Howard	3-12-59

[fol. 1912]

By Registrar Wood

Registrar Wood assigned more different sections to applicant than did his predecessor Byrd. As a result, standard constitutional interpretations are less common during his incumbency. Mr. Wood testified, however, that he assisted white applicants with their interpretations.

The following standard interpretations were given during Mr. Wood's incumbency.

The following 7 accepted white applicants wrote, substantially verbatim, this interpretation of Section 162 of the Mississippi Constitution (dealing with transfer of causes from Chancery Court to Circuit Court):

The law provides that any suit at law filed in the Chancery Court whereas the circuit court has jurisdiction of said cause shall be transferred to the circuit court for disposal.

Six also had substantially identical and quite complex statements of the duties and obligations of citizenship:

Name of Applicant	Date of Application
Smith, Earl	1-9-62
Fortenberry, Charles E.	1-26-62
Magee, Mary B.	1-26-62
Brown, Jesse E.	2-3-62
Forsberg, Torsten J.	2-21-62
Graves, Georgia L.	3-21-62
Sauls, Jerry L.	5-26-62

The following three accepted white applicants wrote substantially identical interpretations of Section 39 of the Mississippi Constitution (Lieutenant Governor's duties):

[fol. 1913] The Lieutenant Governor is the senate's presiding officer but the senate elects a man in case he is absent or disabled.

The last two preceded this statement by the word "Interpretation." The first two have very similar statements of duties and obligations and the third has some themes in common with them.

Name of Applicant	Date of Application
Magee, Katie Y.	10-27-61
Terrell, Henry H.	1-23-62
McKenzie, Mrs. Maudie	12-2-61

The following two accepted white applicants wrote the following verbatim interpretation of Section 120 (Governor may require information in writing from heads of executive departments):

All departments must keep the governor informed as to the discharge of the duties of their office.

Name of Applicant	Date of Application
Boyd, Mrs. Vera	11-30-61
Johnson, Major B.	1-22-62

The following two accepted white applicants wrote the following verbatim interpretation of Section 122 of the Mississippi Constitution (dealing with the Governor keeping the legislature informed):

The governor is required to inform the legislator from time to time as to the condition of the state and its financial condition and to suggest what law and edicts and measures should be taken to alleviate the condition, for the betterment of the State and its people.

[fol. 1914]. They also wrote verbatim statements of the duties and obligations of citizenship.

Name of Applicant	Date of Application
Ratliff, Wilson	2-3-62
Johnson, Harold L.	1-23-62

The following two accepted white applicants wrote, practically verbatim, the following interpretation of Section 259, dealing with the necessary vote for removal of a county seat:

Under this section of the constitution a county seat cannot be removed from its present location unless

such removal is approved of by two thirds of the votes that might be cast in such an [election] [action]. However, such removal to a more central part of the county shall require only a majority of the votes cast.

They also wrote practically verbatim and extremely complex statements of the duties and obligations of citizenship.

Name of Applicant	Date of Application
Alford, William D., Jr.	10-29-62
Owens, Lois Lucile	11-5-62

(2) Duties and Obligations of Citizenship

By Registrar Byrd

1. The application of the following 76 white applicants are substantially identical in context and contain the following themes:

- 1) obey the law, and
- 2) answer the call of the county (or country)

The first two added the theme of Christianity. All of [fol. 1915] these applicants wrote their statements between June 18 and July 27, 1955.

Name of Applicant	Date of Application
Cothern, Welton D.	6-18-55
Graves, Pauline	6-18-55
Johnson, Mrs. Clifton	6-18-55
Clocum, Mrs. Mentoria	6-18-55
Cothern, Mrs. Welton D.	6-18-55
Wallace, Billy P.	6-18-55
Stinson, Mrs. Clifton	6-20-55
Deavers, Pauline B.	6-20-55
Gerald, Fannie	6-20-55
Sistrunk, James W.	6-22-55
Rushing, Florence M. (Clark)	6-23-55
Ratliff, Mrs. Billie J.	6-23-55
Alford, Wendell H.	6-24-55
Morris, Mrs. P. H.	6-24-55
Ard, Johnnie Lou (Mrs. Willie J.)	6-25-55
Brock, Rodney L.	6-25-55

Name of Applicant	Date of Application
Breland, Mrs. Toxie	6-25-55
Breland, Toxie H.	6-25-55
Boyd, Mary	6-25-55
Travis, Mrs. Alvin O.	6-25-55
Forbes, C. D.	6-25-55
Martin, Carl W.	6-27-55
McKenzie, Carter	6-27-55
Sandifer, Edgar V.	6-28-55
Kennedy, Mrs. Denner	6-28-55
Holmes, Mrs. Hixton	6-28-55
Elam, Mrs. H. L.	6-29-55
Brock, Mrs. Johnnie	6-29-55
Ballard, James R.	6-29-55
Waldrop, Ronnie L.	6-29-55
Thomas, Joe D.	6-29-55
Berry, Delores F.	6-30-55
Breland, Paul	7-1-55
Ratcliff, Mrs. James W.	7-1-55
Phillips, Flora Mae	7-2-55
Burnette, Mrs. Gerald	7-2-55
Thomas, Mrs. Roy	7-2-55
Cothern, Marguerite L.	7-2-55
Cothern, Charlie E.	7-2-55
O'Quinn, Glen B.	7-2-55
O'Quinn, Jack D.	7-2-55
Hightower, Bud	7-5-55
Boyd, Mrs. Glen	7-5-55
Hightower, Lewis	7-5-55
Hightower, Hugh C.	7-5-55
Gartman, Mrs. V. L.	7-5-55

[Tot. 1916]

Holmes, Lester W.	7-5-55
Martin, Dewey R.	7-5-55
Foches, Mrs. John A.	7-5-55
Stringer, Mrs. Johnie	7-5-55
Dunaway, Mrs. Elda	7-6-55
Goings, Ellene Ollie J.	7-6-55
Edwards, Mrs. Hollis	7-6-55
Edwards, Hollis O.	7-6-55

Name of Applicant	Date of Application
Rayborn, Billy B.	7-6-55
Cathern, Marvis	7-7-55
Conerly, James L. Jr.	7-7-55
Conerly, James L., Jr.	7-7-55
Conerly, Monroe	7-7-55
Conerly, Quida D.	7-7-55
Duncan, Mrs. Albert	7-7-55
McKenzie, Mrs. James	7-7-55
Morris, Mrs. E. G.	7-7-55
Alford, Bobbie Nell	7-8-55
Boyd, Mrs. A. W.	7-8-55
Holiday, Olin R.	7-8-55
Holmes, Mrs. Lester	7-8-55
Lampton, Dorothy C.	7-8-55
Pope, Frances (Mrs. Oneid)	7-8-55
Simmons, Mrs. John P.	7-8-55
Stuvall, Mrs. J. P.	7-8-55
Thomas, Mrs. Christine	7-8-55
Wallace, Mrs. Willene	7-8-55
Yarborough, Louis G.	7-8-55
Swan, Bob T.	7-20-55
Robbins, Winston F.	7-27-55

The following 74 accepted white applicants, all of whom applied during 1959, wrote substantially identical statements of the duties and obligations of citizenship, as follows:

To live according to and uphold the laws of the state.

Name of Applicant	Date of Application
Sandifer, Jordan A.	1-20-59
Thomas, Rosetta Ard	1-21-59
Magee, Malcum E.	1-22-59
Moore, J. D.	1-22-59
Hartzog, Georgia Mae	1-23-59
Johnson, Mrs. Mary L. M.	1-23-59

[fol. 1917]

DuBose, Mrs. Delores N.	1-24-59
Sauls, Mrs. Doyle	1-24-59

Name of Applicant	Date of Application
Smith, Mrs. E. B.	1-24-59
Stogner, Mrs. Evelyn	1-26-59
Cook, William T.	1-27-59
Alexander, Mrs. Gertie Mae	1-28-59
Stegner, Kathleen	1-28-59
Carr, Carl Benjamin	1-29-59
Gartman, Edith E.	1-29-59
Bergeron, Thelma H.	1-30-59
Ginn, Billy G.	1-30-59
Harvey, Mrs. Wesley O.	1-30-59
Etheridge, Lionel G.	1-31-59
Herring, Huey P.	1-31-59
Thornhill, Ellis F.	1-31-59
Pigant, Thomas E.	2-4-59
Dunaway, Wilkie R.	2-7-59
Alexander, Jimmy D.	2-13-59
Cothorn, Josephine	2-21-59
Holmes, Lucy Mae	2-21-59
Ladner, Martha Anna A.	2-27-59
Brown, Harrold	3-12-59
Thomas, George H.	3-12-59
Milton, John F.	2-17-59
Brown, Millard R.	3-19-59
Alford, George E.	3-20-59
Alford, Wendell H.	3-20-59
Hill, Mrs. Leon	3-28-59
Thomas, Lillian C.	3-30-59
Rushing, Mrs. Willis, Jr.	4-6-59
Ginn, Ruby Ogenes	4-7-59
Ratliff, Sarah L.	4-9-59
Ard, Claude	4-13-59
Jordan, Thomas H.	4-13-59
Papwell, Louise	4-25-59
Mitchell, Eula H.	5-1-59
Rayborn, Chris T.	5-7-59
Fortenberry, Vam	5-9-59
Barnes, Jerry F.	5-15-59
Peterson, Vera M.	5-19-59
Dunaway, Enoch O.	5-27-59
Rowell Reade Mae	6-4-59
Pigott, Elverdie	6-9-59

Name of Applicant	Date of Application
Thomas, Hilam J., Jr.	6-9-59
Dier, O. F.	6-13-59
McCain, Mrs. James D.	6-15-59
Rimes, Patricia M.	6-16-59
Rushing, Mary H.	6-20-59
Burnthorn, Mrs. Leroy	6-24-59
Ard, Mrs. W. O.	6-25-59
Graves, David M.	6-25-59

[fol. 1918]

Ball, Gabell	6-26-59
Fairburn, Mrs. Willard	6-26-59
Stogner, Mrs. Floyd	6-26-59
Alexander, Myrtle E.	6-27-59
Woodard, Mrs. Frank	6-27-59
Breeland, Ellen R.	6-29-59
Lowrey, Clinton E.	6-30-59
Magee, Rose J.	6-30-59
Sandifer, Davis T.	6-30-59
Brown, Olin R.	7-2-59
Cathern, Miss Betty S.	7-2-59
Cothern, Gloria D.	7-2-59
Graves, Mrs. Harlon, Jr.	7-3-59
Martin, Amanda J.	7-3-59
Craft, Sara N.	7-6-59

By Registrar Wood

Wood admitted on the stand that he furnished white applicants themes which they used in their statements of duties and obligations. These themes included:

- 1) endeavor to become a registered voter;
- 2) pay all taxes (or a just proportion of one's taxes);
and
- 3) obey and respect the law.

These themes appear in the following 237 of the forms of the 320 white persons who applied during Wood's incumbency:

Name of Applicant	Date of Application
Ratliff, Billie Dee M.	10-7-61
Ratliff, Gerald L.	10-7-61
Bozeman, Louis E.	10-8-61
Burnett, Doris L.	10-14-61
Rayborn, Mrs. Nettie B.	10-18-61
Alford, Dan	10-20-61
Burnette, June V.	10-21-61
Herrin, Hazel F.	10-27-61
Magee, Katie Y.	10-27-61
Magee, Zake A.	10-27-61

[fol. 1919]

Boyd, Mrs. Vera	11-30-61
McKenzie, Mrs. Maudie	12-2-61
Boyd, Jimmie J.	12-6-61
Brumfield, Henry R.	12-19-61
McDaniel, Nell F.	1-8-62
Smith, Bonnie J. B.	1-9-62
Rocker, Bonnie J. B.	1-13-62
Vince, Paul L.	1-15-62
Forsberg, Mrs. Johna	1-16-62
Swan, Mrs. James	1-16-62
Rayborn, Joyce B.	1-17-62
Boyd, Alma J.	1-20-62
Dunaway, Modie	1-20-62
Johnson, Harold L.	1-23-62
Williams, Weneva B.	1-23-62
Haden, Sara Jo	1-24-62
Brister, Erma N.	1-25-62
Brister, Mamie M.	1-25-62
Dillon, Lovie M.	1-25-62
Reid, Carma N.	1-25-62
Boyd, Polly Sue	1-26-62
Brumfield, Loffie L.	1-26-62
Fortenberry, Charles E.	1-26-62
Kirkpatrick, Annie M.	1-26-62
Kirkpatrick, Hubie C.	1-26-62
Magee, Mary B.	1-26-62
Stinson, Mrs. Leslie	1-26-62
Cooper, Alton W.	1-27-62
Cooper, Sylvia D.	1-27-62

Name of Applicant	Date of Application
Johnson, Albert A.	1-27-62
Dixon, Joyce N.	1-29-62
Sullivan, Mrs. Ruby T.	1-29-62
Tunage, Wayne	1-29-62
Arno, Ruth K.	1-30-62
Beard, Elbert E.	1-30-62
Boyd, J. C.	1-30-62
Brister, Mrs. Buel	1-30-62
Bronn, Paulin M. (Mrs.)	1-30-62
Crain, William J.	1-30-62
Fortenberry, Dodd	1-30-62
Mangum, Claudine	1-30-62
Sawyer, Hetty	1-30-62
Stogner, Iverson (Mrs.)	1-30-62
Strickland, Lester A.	1-30-62
Strickland, Wilda P.	1-30-62
Dunaway, Daisy R.	1-31-62
Fortenberry, Emmer G.	1-31-62
Reagan, Carolyn L.	1-31-62
Stogner, Betty J.	1-31-62
Burkhalter, Arnold S.	2-1-62

[fol. 1920]

Davis, James C., Jr.	2-1-62
Harvey, Garra K.	2-1-62
Brown, Jesse E.	2-3-62
Ratliff, Wilson	2-3-62
Fortenberry, Annie L.	2-6-62
Touchstone, Dorothy I.	2-17-62
Greer, Edward	2-20-62
Forsberg, Torsten J.	2-21-62
Thomas, Emma L.	2-27-62
Walters, Alexandes H.	2-27-62
Coon, Bobby L.	3-3-62
McCain, Charles E.	3-3-62
Pitts, Jack	3-5-62
Smith, Winston E.	3-6-62
Howell, Bobby J.	3-9-62
Boyd, Janice S.	3-17-62
Griffin, Betty J.	3-17-62
Latham, Ida Mae	3-17-62

Name of Applicant	Date of Application
Latham, Troy J.	3-17-62
Graves, Georgia L.	3-21-62
Graves, Marcus E.	3-21-62
Graves, William N.	3-21-62
Polk, Kenneth R.	3-24-62
Webb, Mrs. Ina	4-5-62
King, Leonie S.	4-19-62
Alford, Thomas E.	4-21-62
Alford, Mrs. Thomas E.	4-23-62
Barrett, John C. Jr. (Dr.)	4-25-62
Simmons, Terra M.	5-2-62
Harvey, Betty D.	5-7-62
Breland, Linda R.	5-12-62
Copeland, Eula Mae	5-14-62
Dillon, William H.	5-21-62
Greer, Jewel S.	5-22-62
Herring, Reuben R. III	5-26-62
Sauls, Jerry L.	5-26-62
Sauls, Theola A.	5-26-62
Lee, Agnes Mae	5-28-62
Hilburn, Frank	6-4-62
Pigott, Mrs. Winston T.	6-4-62
McKenzie, Johnny M.	6-7-62
Bullman, Donald L.	6-8-62
Brunfield, Mrs. Verne	6-12-62
Gelpi, Golda	6-12-62
Sumrall, Mrs. John W.	6-12-62
Spencer, Brenda G.	6-14-62
Ginn, Mrs. Eugene B.	6-16-62
Smith, Mrs. Percy	6-16-62
Ward, Eddie J.	6-19-62
Seals, Bernice	6-26-62

[fol. 1921]

Harrell, Betty Mae R.	7-2-62
Sorrell, Stella	7-13-62
Ervin, Jerry	7-18-62
Sistrunk, Betty Jo	7-18-62
Dillon, Charles Albert	7-23-62
Alford, Mrs. Heuland J.	1-25-62
Dillon, Lola Mae	7-27-62

Name of Applicant	Date of Application
McElveen, Lexie Mae	7-28-62
Boyd, Peggy Marie Smith	8-2-62
Sorrell, Ruth Leonard	8-2-62
Hightower, Wilton Ray	8-7-62
Ratliff, Laura Irene	8-1-62
Dillon, Douglas E.	9-18-62
Stinson, Joseph Morris	9-26-62
Stinson, E. Janis McDovell	9-26-62
Reid, Glenn	10-1-62
Luper, Mrs. Effie Naomi	10-5-62
Walker, James Franklin	10-6-62
Berlinger, Myrtis Lea	10-17-62
Berlinger, Walter E.	10-17-62
Burnette, Earl Elvin	10-31-62
Stogner, John Ralph	10-31-62
Vince, Vera Mae	11-2-62
Breland, Burnis Elton	11-3-62
Street, Dorothy	11-3-62
Alford, James H.	11-5-62
Bergeron, Joseph William	11-7-62
Luter, Dorothy	11-9-62
Luter, Hyman H.	11-9-62
Blackburn, Mrs. James Carl	11-10-62
Dockery, William L.	11-10-62
Dockery, Bonie Elaine	11-10-62
Ginn, Mary Nell	11-19-62
Alford, Mrs. Dan	11-30-62
Sistrunk, Paul	11-30-62
McBeth, Christine	12-1-62
Boyd, Alfred Leon, Jr.	12-4-62
Dairs, Joyce B.	12-4-62
Berry, Charles Edward	12-17-62
Salero, Roy Wilson	12-17-62
Boyd, Meldon A.	12-24-62
Ginn, Bobby	12-24-62
Blackwell, Quitman Ned	12-28-62
Ginn, Mrs. John R.	12-28-62
Richmond, Mrs. Hadley	12-29-62
Richmond, Hadley	12-29-62
Graham, Nell	1-2-63
Vince, William Robert	1-2-63

Name of Applicant	Date of Application
Dunlap, Mrs. H. R.	1-3-63
Fulgham, Lloyd	1-4-63
[fol. 1022]	
Fulgham, Johnny Roy	1-4-63
Stewart, Nolan Irvin	1-4-63
Felder, Brenda Cora	1-7-63
Johnson, Jimmy Earl	1-8-63
Jolley, Doris Ann	1-10-63
Jones, William Earl	1-11-63
Baughman, David Oliver	1-11-63
Holmes, Walter Randolph	1-12-63
Magee, Jack	1-16-63
Magee, Racine	1-16-63
Rushing, Joseph George	1-16-63
Woodard, Lessie Mae Thomas	1-17-63
Woodard, Steven Nathaniel	1-17-63
Raynes, Willis Robert	1-18-63
Rand, Rickie Myrle	1-18-63
Katliff, Ira Nelson	1-21-63
Mowdy, Bessie Ivon	1-21-63
Stogner, Russell G.	1-21-63
Rushing, Bill	1-23-63
Rushing, Shirley E.	1-23-63
Fortenberry, Mrs. Dodd	1-23-63
Cathern, Arthur C.	1-24-63
Branch, J. D.	1-28-63
Duncan, Bobbie	1-28-63
Strain, Arie May Johnson	1-28-63
Terrell, Jeanell	1-28-63
Holmes, Mrs. Claude	1-29-63
Beard, Junior (Will)	1-30-63
Herrington, Homer Byron	1-30-63
McKenzie, Mrs. Willie Nell	1-30-63
Yarborough, Wilma D.	1-30-63
Blackwell, Lana E.	1-31-63
Capps, Robert Ellis	1-31-63
Drummond, Earl T.	1-31-63
Drummond, Daisy Lee Howell	1-31-63
Harvey, Robert Curtis	1-31-63
Holmes, David Lucina	1-31-63

Name of Applicant	Date of Application
Holliday, James Burrel	1-31-63
McKenzie, Albert Roy	1-31-63
McElwin, Ralph	1-31-63
Stinson, Hugh	1-31-63
Stinson, Mrs. Hugh E.	1-31-63
Crawford, Ann	2-1-63
Hawn, Mrs. Wesley	2-1-63
Vaught, Valera Lee	2-1-63
Hinson, Joel Hunt	2-2-63
Quin, Mrs. Cecil	2-4-63
Langston, Johnnie Mae	2-5-63
Martin, Ralph Edwin	2-5-63
Mangum, Carolyn Francis	2-6-63

[fol. 1923]

Sutton, Mary Elizabeth	2-6-63
Buck, Jewitte James, Jr.	2-7-63
Stewart, John Paul	2-7-63
Magee, Sammy Jewell	2-9-63
Terrell, Herman Edward	2-9-63
Brumfield, James Willie	2-11-63
Brumfield, Judy Pat	2-11-63
Stewart, Georgia Maxine	2-12-63
Magee, Charles E.	2-13-63
Harvey, Mrs. B. B. (Anie)	2-18-63
Harvey, Burtie Benett	2-18-63
Alexander, James Edward	2-19-63
Alexander, Evelyn C.	2-19-63
Morris, William Alexander	2-19-63
Wood, Bobby Mitchell	2-19-63
Dillon, Paul Edward	2-20-63
Dillon, Doris Faye	2-21-63
O'Quinn, John Everette	2-23-63
Bearden, Bismark Bishop	2-25-63
Bearden, Mrs. Bismark	2-25-63
Branch, Virginia A.	2-26-63
McKenzie, Lucille B.	2-26-63

[fol. 1924]

Walthall County #76

C. Grading

In view of the large numbers of standard answers (see assistance) appearing on the application forms there is little occasion for the grade of the form. The following forms, however do reflect discrimination in grading.

(1) 42 white applicants recopied Section 14 as their interpretation thereof and 9 white applicants recopied Section 30 as their interpretation of that section. All were registered.

(2) The only known white applicants who were rejected during the entire period for which forms were returned were Paul Dier, on September 26, 1961, and Jerry Sauls, on March 10, 1962. Neither wrote a constitutional interpretation or a statement of the duties and obligations of citizenship.¹ Every white applicant who wrote or copied anything in Questions 19 or 20 was registered. At the trial of *United States v. Wood*, the following seventeen white applicants who were registered were shown to be of law literacy:

[fol. 1925] D. The following white witnesses

Name	Date of Application
1. Claude Rowell	6-3-59
2. Reade Mae Passman	6-9-59
3. Howard Brown	3-12-59
4. Mrs. Buel Brister (can write but not read)	1-30-62
5. Franklin Hilburn	6-9-62
6. Mrs. Robert Thomas	5-1-59
7. Harold L. Johnson	1-23-62
8. Enos Mitchell	7-2-59
9. Hugh C. Hightower	7-5-55

¹ Sauls was subsequently registered on May 26, 1962, on a form in which the constitutional interpretation and the duties and obligations were identical to those of six other applicants. When confronted with that form on the witness stand, Wood said it looked as though he had given him the answer.

Name of Applicant	Date of Application
10. Fred Dillon (no form found, may have been registered without a form)	1-29-57
11. Alton Ard	6-20-55
12. Lela Nettie Elam (explained <i>inability</i> to read by poor glasses; 3rd grade education)	6-20-55
13. Willie Jewell Ard	5-29-59
14. Altus Holmes	5-17-58
15. Jan Jewell Barnes	7-3-59
16. Nate Bud Hightower	7-5-55
17. Nolan Johnson	4-26-55

[fol. 1926] Walthall County #76

Part III

The following Negro applicants in Walthall County, who have been denied registration in Walthall County on the dates and in the manner indicated, are designated by name and number. The number is the number used in answer to Interrogatories 23 and 24 of defendant State of Mississippi. Specific experiences are detailed in Part I above, by number. If no number is listed, the judgment that the individual was deprived of his right to vote is based on an assessment of his application form in the light of the application forms in the county.

(a) Negroes denied the right to vote because of the interpretation test

7404	A. G. Tobert	5-27-55
74039	Mrs. Melverson Dunham	1-28-56
74031	Benton Simmons	4-15-58
74007	Sidney J. Ellzey	8-30-61
74025	Ruby Magee	8-30-61
	Wiley P. Walker	11-13-61

Miss Magee was also denied the right to vote by reason of the perfect form requirement because of an error in her precinct designation.

[fol. 1927]

George Co. #77

Part I

A

The following Negro citizens of George County were not permitted to apply to register to vote, or were told they would have to know the names of political officials to register, or were told that the registrar could not register them until the Election Commissioners passed on their forms, or were rejected for registration because their interpretations did not satisfy the registrar. The events described below occurred at the Circuit Clerk's office in George County.

- | | | |
|-------|---------------------------------|--|
| 20026 | About 1956
Dale-R
Refused | He went to the Clerk's office shortly after Dale took office to see if Dale would let him register. He told Dale he was a veteran and wanted to register. Dale said no, he did not want to register colored people. |
| 20005 | 1956-1959
Dale-R
Refused | He attempted registration every year between 1956 and 1959 and was told by Mr. Dale the books were closed to colored people. |
| 20030 | 1956-1960
Dale-R
Refused | Attempted to register alone. Was told by Mr. Dale the books were closed. |
| 20015 | Late 1950s
Dale-R
Refused | Dale told him and his wife that they still were not set up for registering colored. |
| 20026 | 1/6/62
Green-R
Refused | He went to the Circuit Clerk's office with Willis Bryant, also a Negro, to attempt registration. He started to fill out an application form. After a while Green said it was close to dinner time, that Phillips should study more and then come back. He said he should learn the county officials before trying to register again. |

1256

20001 1/16/62
Green-R
Refused

He and his wife returned to the Circuit Clerk's office. Green told them they had to know the names of the County Democratic Committee. His wife asked what their names were, but Green refused to tell her and said they shouldn't come back until they knew everything in the Attorney General's Digest of Mississippi Laws.

[fol. 1928]

20000 1/16/62
Green-R
Refused

She and her husband returned to the Circuit Clerk's office. Green asked the names and functions of the Election Commissioners, and she told him. Green said she had gotten them confused with the Democratic County Committee. She asked their names but he said he had told them too much already. He said they shouldn't come back until they knew everything in the Digest of Mississippi Laws.

20035 1/6/62
Green-R
Refused

He and his wife went to the Circuit Clerk's office to attempt registration about 11:30 a.m. Four or five white people were there and Green asked the Talberts to come back later. That afternoon he filled out an application form and interpreted Section 30. Green then questioned him about local officials. Green said that the members of the County Executive Board would pass on their applications and that they would learn if they were accepted about the middle of March.

20016 1/6/62
Green-R
Refused

She and her husband went to this Circuit Clerk's office to attempt registration. She filled out an application form, interpreting Section 31

of the Constitution. Green asked if she knew the member of the Board of Supervisors from Beat 3. She did not, and he said their interpretation was correct but they couldn't be qualified voters until they knew their county officers and committee members. He said they should get the names from Attorney Bailey, or the County Superintendent.

20015 1/6/62
Green-R
Refused

He and his wife went to the Circuit Clerk's office to attempt registration. He filled out a form and interpreted Section 70 of the Constitution. Green asked if Grant knew the names of the county officers and special committee members. Green said he thought that Grant should find out the names he didn't know from the County Superintendent or from Lawyer Bailey. He said Grant could come back when he knew the names.

[fol. 1929]

20034 1/6/62
Green-R
Refused

She and her husband went to the Circuit Clerk's office about 11:30 a.m. to attempt registration. There were several others there and Green asked the Talberts to come back after lunch. After lunch she filled out an application form, interpreting Section 50. Green questioned them about local officials and told them that the voting committee would make sure they were qualified before registering them.

20000 1/13/62
Green-R
Rejected

She and her husband went to the Circuit Clerk's office to attempt registration. She filled out a form, interpreting Section 56. Green said her election district was wrong and that she should just have repeated the text of Section 56. He questioned her about local officials.

20000 1/26/62
Green-R
Refused

She and her husband went back to the Circuit Clerk's office. She filled out an application form and interpreted Section 73. Green said he would let the commission decide about the form, that he was through with her.

20001 1/26/62
Green-R
Rejected

He and his wife went to the Circuit Clerk's office to attempt registration. Green refused to let them fill out forms at the same time. He filled out an application form and interpreted Section 34. Green said the only question he had was about the interpretation, that he would hear the results in March.

20042 1/30/62
Green-R
Refused

She went to the Circuit Clerk's office to attempt registration. Green asked her various questions and then gave her an application form which she filled out, interpreting Section 56. She asked Green about one thing, but he ~~said~~ he couldn't help her. Green said her application looked alright and that someone else was supposed to look at it. He asked if the FBI had been to see her. Green also asked if she knew the county officials. He said she would hear from him. She did not.

[fol. 1930]

20016 2/3/62
Green-R
Refused

She and her husband went again to the Circuit Clerk's office to attempt registration. Green asked if the FBI had been to see them. She filled out an application form, interpreting Section 30 of the Constitution. Green said he was satisfied with their interpretations. He asked Mr. Grant about N. G. Fairley and other local officials. Green said he would let Mr. Grant know what the Election Commissioners decided at their March 20th meeting.

20015 2/3/62
Green-R
Refused

He and his wife returned to the Circuit Clerk's office to attempt registration. Green asked why they had started trying since he had come into office. Grant said he had been trying for several years. Grant filled out an application form and interpreted Section 73. Green then questioned him about local officials, and Grant showed him a list of local officials that they had compiled. Green said the election commissioners would consider applicants on March 20.

20015 3/23/62
Green-R
Refused

He went alone to the Circuit Clerk's office to see if he could be registered. The election commissioners were meeting. He returned in the afternoon and was told he would have to get a lawyer or someone else with a typewriter to type out a statement that he wanted to register and file it with Green. The Commissioners would then consider the statement at its October meeting.

20001 3/26/62
Green
Refused

He and his wife went to the Circuit Clerk's office to see if they had been registered. They saw 5 white people seated in Green's office. One woman there said Green was out, and they could wait in the hall. When Green came along, he said he would see if the committee had reached a decision. He went in the office. After about ten minutes he had not come back out, and Mrs. Alexander went in and said they would come back another time.

20001 4/2/62
Green-R
Refused

He and his wife went in the Circuit Clerk's office with Mrs. Ernestine Talbert to see if they had been registered. Green asked why they didn't come back to meet the committee. He said the committee would meet again on June 4th.

[fol. 1931]

20034 4/2/62
Green-R
Refused

She went to the Circuit Clerk's office with Robert and Doris Alexander to see if their applications had been accepted. Green said he had shown their applications to the Election Committee but they had only considered the Grants'. Green said the Election Committee wanted to talk with them and that he would neither approve nor disapprove their applications until the Election Committee told him to.

20033 5/7/62
Green-R
Refused

He filled out an application form and interpreted Section 56 of the Constitution, but Green refused to register him, saying he didn't think that was the interpretation.

20040 4/13/63
Green-R
Delayed

He went to the Circuit Clerk's office alone and asked to fill out an application form. Green told him, things are different now, you have got to wait 14 days while I put your name in the paper; come back then.

20041 4/17/63
Green-R
Delayed

He went alone to the Circuit Clerk's office to attempt to register. Green said that before he could attempt registration his name and address would have to be published in the paper for two weeks.

20039 4/20/63
Green-R
Delayed

He went to the Circuit Clerk's office to attempt registration. Green told him that the law had changed, that his name and address must appear in the paper for two weeks, then he could come back and fill out a form.

20042 4/30/63
Green-R
Rejected

She and her husband went to the Circuit Clerk's office to attempt registration. She filled out an application form, interpreting Section 33. Green said she hadn't done as well this time as the time before. In a pretrial conference in *U.S. v. Green*, he stated that she had been rejected because of her interpretation.

[fol. 1932]

B

The following Negro applicant was not permitted to register because the registrar questioned his good moral character:

20039 5/1/62
Green-R
Rejected

He and another Negro, Lincoln Johnson, went to the Circuit Clerk's office to attempt registration. He filled out an application form and interpreted Section 33. Green said he was not satisfied. In May 1963 Green said in court, through counsel, that the rejection was based on moral character. Green never held a hearing on such charges.

20039 5/2/62
Green-R
Reject

He went to the Circuit Clerk's office to attempt registration. He filled out an application form and interpreted Section 31. Green said that would not be the way he would interpret it. In May 1963 Green stated in court, through counsel, that the rejection was based on moral character. He never held a hearing on any such allegations.

20039 5/8/62
Green-R
Reject

He went to the office to attempt registration. He filled out an application form and interpreted Section 70. Green said he didn't think he could pass him this time, that Talbert must interpret it to his satisfaction. In May 1963 Green stated in court, through counsel, that the rejection was based on moral character. No hearing was held.

C

The following Negroes was deterred from applying to register to vote and then was not registered to vote. This event occurred at the Circuit Clerk's office in George County.

20008 8/25/61
Green-R
Rejected

She went to the Circuit Clerk's office to attempt registration. Her son was with her. Green questioned her about several local Negroes and asked if she belonged to the NAACP. Green said a lot of "Niggers" who work for white people and belong to the NAACP will lose their jobs. She filled out a form and interpreted Section 72, but Green failed to register her. She is the first Negro permitted to fill out a form by Eldred Green.

[fol. 1933]

21050 1/6/62
Green-R
Deterred

Completed application form, was told that the election committee would meet in March and that she would be notified if found qualified to vote; never received notice. Went back to Clerk's office 4/2/62. Told she would have to meet with the Committee on June 14th. On April 25, 1962, she was notified that her contract was not being renewed; No reason was given.

[fol. 1934]

George County #77

Part II

Application Forms

1. Number of Application Forms

Period includes forms from 5-21-60 to 4-8-63

White

Accepted	455
Rejected	11

Negro

Accepted	5
Rejected	30

2. Periods Covered by the Forms

The first form in George County is dated May 21, 1960. On April 13, 1962, the Government filed suit against the Circuit Clerk of George County and the State of Mississippi under 42 USC 1971a. On April 24, 1962, the United States District Court for the Southern District of Mississippi issued a Temporary Restraining Order in the cause which remains in force, pending further order of the Court, by agreement of counsel. On November 27, 1962, by order of the court following a motion under Rule 34, the Government photographed the voter registration records of George County. On April 8, 1963, an attorney of the

Department of Justice inspected the county's voter registration records since the date of photographing. The forms by race before and after the issuance of the Temporary Restraining Order are as follows:

[fol. 1935]

(a) 5-21-60-4-24-62 (Prior to Order)

	Accepted	Rejected
Whites	282	1*
Negroes	0	16

* It is not certain that this white applicant, (Oscar Bodie Walley,) now deceased, was rejected. However, his name was not found upon the registration books.

(b) 4-25-62-4-8-63 (Following Order)

	Accepted	Rejected
Whites	173	10
Negroes	5	14

[fol. 1936]

Analysis of Forms *

(a) Selection of Constitutional Sections

(2) May 21, 1960 to April 24, 1962

(This involves all application forms prior to issuance of the Temporary Restraining Order)

Section	White	Negro	
1	0	1	
20	0	1	
30	186	5	(form not retained by registrar)
31	7	1	
33	7	0	
34	12	0	
35	20	1	
50	11	1	
56	5	2	
67	18	0	
70	1	1	
72	0	1	
73	12	2	
240	2	0	
blank and no section indicated			
	283	16	

* With the exception of section selection, analysis is restricted to those forms which have been photographed.

All Negro applicants were rejected.

All but one of the above white applicants was registered to vote.

66% of the white applicants during this period received Section 30 of the Constitution, "There Shall Be No Imprisonment for Debt," while only 31% of the Negroes were given that section. The first Negro to apply for registration under Circuit Clerk Green who became the first Negro ever to be permitted to fill out an application form [fol. 1937] in George County was assigned a section of the Constitution which Mr. Green never has given to a white person. (Mrs. Libbia Cooper; August 25, 1961; Section 72)

Every bill which shall pass both houses shall be presented to the governor of the state. If he approve, he shall sign it; but if he does not approve, he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered; and if approved by two-thirds of that house, it shall become a law; but in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it has been presented to him, it shall become a law in like manner as if he had signed it, unless the legislature, by adjournment, prevented its return, in which case it shall be a law unless sent back within three days after the beginning of the next session of the legislature. No bill shall be approved when the legislature is not in session.

(2) 4-25-62-4-8-63

	Whites		Negroes	
	Accepted	Rejected	Accepted	Rejected
30	98	4	2	2
31	1	2	—	3
33	5	—	—	2
34	2	—	—	—
35	3	1	1	—
50	2	—	1	—
56	—	—	—	3
67	62	1	1	—
70	—	—	—	1
Several Sections	—	—	—	1
Blanks	—	2	—	2
	173	10	5	14

90% of the above white applicants received either Section 30, "There shall be no imprisonment for debt", or Section 67, "No bill shall be introduced into either house of the legislature during the last three days of the session". 26% of the Negro applicants during this period received one of those two sections.

[fol. 1938]

(2) 4-25-62-4-8-63

The following are the ten white applicants who apparently were rejected for registration by Mr. Green during this period. Set forth in parenthesis following the date of application and name of each is the date of ultimate registration of the applicant and/or commentary upon his form.

[fol. 1939] 4-25-62 Roy Chapman

(no answer to item 20; later registered on April 30, 1962)

4-28-62 Sherry Ann Odom

(Stopped before reaching items 19 and 20)

5-8-62 Sadie Arella Chapman

(Registered later the same day)

5-18-62 Clayton E. Lawrence

(Later registered on May 26, 1962)

5-19-62 Margaret Azalea Harless

(Registered later the same day)

5-22-62 Vera Kate Milhous

(Item 20 not filled out; later registered on May 30, 1962)

5-22-62 Vera Kate Milhous

(Only items 18 and 19 were filled out; later registered on May 30, 1962)

5-31-62 James Bestor McKenzie

(Stopped before reaching items 19 and 20)

11-28-62 Mitchell J. Nicholson
(Item 18 blank; later registered on January 30, 1963)

2-27-63 Peggy Lou Mates

(Insufficient residence in the state)

b. Assistance to White Applicants

Patterned answers in the interpretations of white applicants to Section 30 of the Constitution are set out below:

Eleven white applicants, said essentially, you (or noone) can not be put in prison for debt:

[fol. 1940] Names	Addresses
Owen Stanley Welford (2-3-61)	Rt. 3 Lucedale (Same)
Loyd Allen Dale (1-31-61)	Lucedale (Same)
Charlie Lee Childress Jr. (10-25-60)	Central (Same)
Virginia Louise Eubanks (1-30-62)	Agricola (Same)
Patricia Ann Bang (1-30-62)	Salem Com. (Basin)
Irene Harmon (8-28-62)	Bexley (Same)
Henry Truman Rhymes (2-2-62)	Central (Same)
James T. Havard (7-18-62)	Central (Same)
Franklin Reeves (1-27-62)	(Central) Cross Rds.
Joseph Clinton Ivey Jr. (1-27-62)	Basin (Same)
Darwin W. Howell (1-19-62)	Davis (Same)

Fourteen white applicants responded simply by restating the section or varying it slightly to you cannot be imprisoned for debt.

	Addresses
Maurice C. Smith (3-23-61)	Rocky Creek (Same)
Thomas Austin Jones (6-17-60)	Agricola (Same)
Mary Kathleen Ables (5-19-62)	Agricola (Same)
William Dewey Eubanks (1-6-62)	Agricola (Same)
Ralph Howell (4-2-62)	(Davis)
Robert Lee Kirkwood (1-24-62)	Lucedale (Same)
Maybird Ledora Smith Grant (2-3-62)	Beat 3 (Basin)
Evelyn Jo Ann Tanner (1-29-62)	Lucedale (Same)
Mark Tanner (1-28-62)	Lucedale (Same)
Lauragene Havard (1-20-62)	Lucedale (Same)

[fol. 1941] Names	Addresses
Havard C. Hempstead (9-24-62)	Lucedale (Same)
John K. Rymes (10-4-62)	Central (Same)
Pauline Havard (2-6-61)	Bexley (Same)
Ethel Roberts Havard (1-20-62)	Lucedale (Same)

Fifteen additional white applicants responded by saying (one) can't be put in prison for not paying his debts:

Names	Addresses
Roma Fern Rogers (10-4-60)	Central (Same)
Nancy A. Reeves (11-2-60)	Benndale (Same)
Irma Martha Claxton (12-19-61)	Rocky Creek (Same)
Sam Wilkins Thompson (1-26-61)	Rt. 2 Agricola (Same)
Sarah Elizabeth Havard (1-31-62)	Rocky Creek (Same)
Jo Ann Jones (2-19-62)	Lucedale (Same)
Winnie Mae Eckhoff (7-11-62)	Rocky Creek (Same)
Lelonee Tanner (1-31-62)	Lucedale (Same)
Luther Mason (1-31-62)	Bexley (Same)
Billy Edward Scott (2-9-62)	Basin (Same)
Nora Mae Brown (6-25-60)	Agricola (Same)
Mrs. Jim Brown (6-25-60)	Agricola (Same)
Charles B. Keel Jr. (4-1-61)	Beat 3 (Same)
Menunett Baxter (3-14-61)	Central (Same)
Fred Mays (1-12-61)	Lucedale (Same)

[fol. 1942] Twenty white applicants said essentially & or you, etc., can't be put in prison for owing a debt.

Names	Addresses
Corine Hudson (9-16-62)	Basin (Same)
Thellis Dixon (1-19-62)	Basin (Same)
Gladys Howell Peterson (9-13-62)	Central (Same)
Ola Herrington Williams (1-25-62)	Rocky Creek (Same)
Geneva Minnie Pierce (1-6-62)	Agricola (Same)
Georgia L. Tallert (1-27-62)	Howell Com. (Same)
Edna Hutcherson (1-29-62)	Lucedale (Same)
Otha Edward Miller Jr. (5-27-61)	Rt. 3 Lucedale (Same)
Edna Earl Atkins (8-28-61)	Rt. 3 Lucedale (Same)
William Louis Tanner (1-28-61)	Agricola (Same)
Mary Eloise Stewart (10-31-61)	Agricola (Same)
James Lawrence Taylor Jr. (10-20-61)	Lucedale (Same)

Names	Addresses
Norma Pauline Edwards (2-1-62)	Rt. 4 Lucedale (Rocky Creek)
Mary Evelyn Parker (1-29-62)	Central (Same)
Raymond Orlyn Foster (1-28-61)	Agricola (Same)
Ruby Jane Carlisle (1-18-61)	Rocky Creek (Same)
Fedderson C. Robinson (1-9-62)	Rt. 2 Lucedale (Same)
Geannean Mizell Johnson (1-18-62)	Benndale (Same)
Rita Elaine Bexley (2-28-62)	Bexley (Same)
Herbert Howard (4-30-62)	Bexley (Same)

[fol. 1943] Thirty additional white applicants responded (one) can't be put in prison for owing anyone (or anybody or someone or somebody):

Names	Addresses
Moris Wayne Fallon (2-15-62)	Lucedale (Same)
Ida M. Nicholson (2-7-62)	Rocky Creek (Same)
Evelyn Marie Howell (2-1-62)	Number 3 (Basin)
Marie Thomley (1-30-62)	Rocky Creek (Same)
Shelby Jean Bufkin (2-9-61)	Rt. 2 (Agricola)
Mitsuko Hayden (10-24-61)	Ward (Same)
Alice Lea Dye (1-19-62)	Bexley (Same)
Roy Bill Pippins, Mrs. (1-22-62)	Central (Same)
Carlton L. Fore (1-20-62)	Bendale (Same)
William Travis Havard (1-22-61)	Central (Same)
Claudia Hilbun (1-23-62)	Central (Same)
Bessie Marie Gartman (1-26-62)	Basin (Same)
Rebecca Ann Fore (1-26-62)	Bendale (Same)
Etta Mae Dossett (1-27-62)	Howell (Same)
Jeannette G. Alldredge (1-29-62)	Rocky Creek (Same)
Mazie Vernell Brown (3-23-62)	Ward (Ward)
Opal Maxine Cochran (3-21-62)	Central (Same)
Ruby Brewer Bradley (4-7-62)	Lucedale (Same)
Clifton Charles Ward (2-14-62)	Str Rt. Benndale (Same)
Oscar Stewart Hull (2-2-62)	Agricola (Same)
Laurence Elton Prescott (2-6-62)	Lucedale (Same)

[fol. 1944]

Jewel Dean Dickerson (1-30-62)	Bexley (Same)
Guy Edward Williams (3-8-61)	Benndale (Same)

Names	Addresses
Douglas L. Miller (1-24-62)	Rt. 2 Lucedale (Davis)
Willie Margil Brooks (2-7-61)	Basin (Same)
James C. Havard (2-1-62)	Lucedale (Same)
Bessie Dean (1-15-62)	Agricola (Same)
Jeannell Taylor (1-16-61)	George (Central)
Edward Earl Edwards (1-27-61)	Rocky Creek (Same)
Jessie Douglas Hobley (1-26-62)	George Co. (Bexley)

Instead of winding up with "owing anyone", six white applicants concluded their interpretations, "owing money" or "owing anyone money";

Addresses

Clifton Doyle Dixon (1-30-61)	Salem (Same)
Bernard Harvard Green (2-4-61)	Bexley (Same)
Vernon Paul Miller (9-11-61)	Beat 2 Cooks Corner
Lyman Perry Mason (3-20-61)	(Pine Level)
Dago Maples (6-16-61)	Lucedale (Same)
Effinice Carter Havard (Mrs.)	Broom (Same)
(1-31-62)	Central (Same)

One white couple gave the same interpretation, "That no man or family should be put in jeopardy and account of debt":

Names	Addresses
Mary E. Barnes (6-10-60)	Rocky Creek (Same)
Cletus Barnes (6-10-60)	Rocky Creek (Same)

[fol. 1945] The following pairs of persons had substantially identical answers to both items 19 and 20. The Howells were registered without writing any interpretations.

Names	Addresses
Clifton Doyle Dixon (1-30-61)	Salem (Same)
Hobley, Jessie Douglas (1-26-62)	George Co. (Bexley)
William E. Edwards (1-27-61)	Rocky Creek (Same)
Edna Earl Edwards (1-27-61)	Rocky Creek (Same)
Talley Murdock Howell (11-25-60)	Central (Same)
Ethel Louise Howell (11-26-60)	Central (Same)

Names	Addresses
Mary E. Barnes (6-10-60)	Rocky Creek (Same)
Cletus Barnes (6-10-60)	Rocky Creek (Same)
Mark Tanner (1-28-62)	Lucedale (Same)
Evelyn Jo Ann Tanner (1-29-62)	Lucedale (Same)
Carlie Lee Childress Jr. (10-25-60)	Central (Same)
Nancy A. Reeves (11-2-60)	Benndale (Same)
Helen Hankins Ellzey (1-14-61)	George (Basin)
Acciel E. Ellzey (1-14-61)	George (Basin)

[fol. 1946] Forms Filled Out Wholly or in Part by A
Person Other than the Applicant

(1). Circuit Clerk Green filled out the form of one white applicant, Nancy A. Reeves, Bendale (11-2-60) and Carlie Lee Childress, Jr., white, Rt. 3, Lucedale, (10-25-60) after permitting his mother to fill out his application form for him and Acciel E. Ellzey, white, Rt. 3, Lucedale, (1-14-61) after permitting his wife to fill out his form for him.

The following white applicants had the county line of the oath slips on their application forms filled in by the same person, presumably Circuit Clerk Green, who filled in the county line in the notarization at the bottom of the form.

Edna Hutcherson	1-29-62
Eula Mae Anderson	10-2-61
Vernon Paul Miller	9-11-61
Pauline Havard	2-6-61
Owen Stanley Welford	2-3-61
Charlotte Perkins Butler	2-1-61
Charles Jessie Mason	1-31-61
Barbara Anne Mason	1-31-61
Ronald Hugh Daffin	1-18-61
Vallie Parker, Jr.	1-11-61
Laura Frances Rouse	11-9-60
Ernestine Powell Tanner	10-5-60
Lorine S. Shepard	9-27-60
Sara Elizabeth Barton	8-30-60
Chella Delores Goff	7-1-60

In the instance of Eula Mae Anderson neither the election district nor the county were written by the person who filled in the rest of the form exclusive of the notarization.

[fol. 1947] (2) Differences were noted between the handwriting on the answers to items 19 and 20 and the handwriting on the remainder of the form of Lucindy Hollimon (1-27-62).

(3) The applicant signature on the back of the application form was not written by the same person as the applicant's name on the front on the forms of the following white applicants:

Genora Cox Brown	(1-27-61)
Joseph Dickerson	(2-1-62)
Mrs. Robert C. Howard	(2-10-62)
David Levi Davis	(1-28-61)
Sam Wilkins Thompson	(1-26-61)

(4) The answers to items 19 and 20 on the form of Donald Levi Davis (1-28-61) were not written by the writer of the handwriting on the front of that application form.

(5) The answers to items 18 through 20 and the election district and county on the oath slip of the application form of Edna Earl Edward were all written by the writer of the corresponding information on the form of William E. Edwards.

[fol. 1948]

C. Grading

The following white applicants who were registered to vote wrote interpretations of Section 30 of the Mississippi Constitution, "There Shall Be No Imprisonment for Debt." Their interpretations as well as their answers to item 20, the duties and obligations of citizenship, are set forth below the name and date of application of each.

Name: John Cecil McMillan

Date: 7-12-61

19: "I thank that a Neorger should have 2 years in collage before voting because he don't under stand."

20: "under Standing of pepper & Government ship Bessing"

Name: Melba Luella Davis

Date: 1-29-62

19: "I think if any one any thin they saved may if and i believe in the constitution and i believe i would pay for acraim if coumme one."

20: "a good citizen is a proson i'm that good as the first and do not broke the laws of the state that is a good citizen of the state."

Name: Arthur Lamar Pipkins

Date: 9-30-61

19: "I believe it is sane one who has never been in prison and stays in good with the law and tries his best to be a good citizen for his country."

20: "A good citizen is one who tries to help country helps one another & does not drink."

Name: Ralph Dickerson

Date: 1-24-62

19: "well that is a god thing, because it was in prison I couldn't have live and be a citizen of the U. S. State."

20: "try the Best thing in his county and Don't get any thing that he know wont do him no good."

[fol. 1949]

Name: James Ellis Kline

Date: 10-9-61

19: "I unstnt, 30 cant be put in prison"

20: "obey law and pays debts"

Name: Jerry Gough

Date: 12-16-61

19: "I will pay my debts."

20: "I think a good citizen should always vote in all the elections."

Name: Roy Ford Mizell

Date: 1-23-62

19: "That the will no be no imprisment after death."

20: "a good citizen is a pearson how beliv in God and help his fellow man."

Name: Ernestine Williams

Date: 1-31-62

19: "There shall be no imprisonment for death is what section 30 means to me."

20: "A good citizen is a person who respects the law of the land."

Name: Mrs. Paul A. Shows

Date: 1-31-61

19: "I can't be put in the penitentiary."

20: "A good citizen is to obey the law and help to better his country."

Name: Julian D. Cochran

Date: 6-27-60

19: "They put you in jail but can't put you in prison."

20: "Good loyal citizens of the State and County by which you are Govern."

Mrs. Ernestine Tanner, white, (10-5-60) was registered to vote without being required to interpret a section of the Mississippi Constitution.

The following white citizens of George County were registered to vote although they failed to answer item 20, the duties and obligations of citizenship:

[fol. 1950]

Lorie Robinson Nelson	(2-14-61)
C. E. Thomas	(8-11-61)
Charles B. Keel	(4-1-61)
Mary N. Keel	(4-1-61)

[fol. 1951]

George County #77

Part III

The Negro citizens herein have been denied voter registration after filling out application forms. Set forth for each such person are the number assigned him should he have been interviewed by the Government, his name and the date of his registration attempt.

(a) The following Negroes were denied registration on the basis of their interpretations of a section of the Mississippi Constitution:

20042	Inez Larcenia Wilson	4-30-62
20019	Lincoln Johnson	5-1-62
20019	Lincoln Johnson	5-2-62
20033	Clarence Mathew Talbert	5-7-62
20019	Lincoln Johnson	5-11-62

(b) Willie Talbert, a Negro, 20039, was denied registration because of the good moral character requirement on May 1, 1962; May 2, 1962; and May 8, 1962. He was not informed that this was the reason for his being denied registration.

(c) The following Negroes were denied registration because of the perfect form requirement:

20001	Robert F. Alexander, Jr.	1-13-62
20036	James Talbert, Jr.	4-28-62

[fols. 1952-2032] [File endorsement omitted]

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION**

Civil Action No. 3312

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF MISSISSIPPI, ET AL, Defendants.

ORDER REDESIGNATING THREE-JUDGE COURT—September 12,

1963

The Honorable John Minor Wisdom, United States Circuit Judge, having been named by me, as Chief Judge, to serve as a member of a three-judge district court to hear the above matter, and the said Honorable John Minor Wisdom having requested to be relieved, he is hereby relieved from further assignment as a member of the Court.

I, Elbert P. Tuttle, Chief Judge of the Fifth Circuit, hereby designate the Honorable Ben F. Cameron, United States Circuit Judge, as a member of said Court in the place of Judge Wisdom. The Court is hereby redesignated accordingly.

This 12 day of September, 1963.

Elbert P. Tuttle, Chief Judge, Fifth Circuit.

[fol. 2033] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI

Oct. 12, 1963.

LETTER REQUESTING TRIAL DATE—Filed October 14, 1963

Honorable Ben F. Cameron, Circuit Judge, United States Court of Appeals for the Fifth Circuit, Meridian, Mississippi.

Honorable John R. Brown, Circuit Judge, United States Court of Appeals for the Fifth Circuit, Houston, Texas.

Honorable William Harold Cox, Chief Judge, United States District Court for the Southern District of Mississippi, Jackson, Mississippi.

Dear Judges Cameron, Brown and Cox:

I am writing to you about *United States v. Mississippi* (C.A. No. 3312), the three-judge court case involving the constitutionality of certain sections of the Mississippi constitution and statutes dealing with voter registration.

Since the purpose of this letter is to request a firm trial date in the near future, I shall set forth briefly the chronological history of this case to date.

August 28, 1962

The United States filed its Complaint.

March 8, 1963

The various motions of the defendants were argued before the three-judge court. The Court's rulings were as follows:

- [fol. 2034] (1) The defendants' motions to strike and motion for more definite statements were denied.
- (2) The defendants' motion to stay—doctrine of abstention, was held in abeyance for "decision very shortly", but deferring action on this motion was not to interfere with discovery or the filing of the answers.

- (3) The defendants' motions to dismiss for lack of jurisdiction of the subject matter was taken with the case because the Court felt it went to the merits.
- (4) The defendants' motion to quash the three-judge court as to certain matters was taken with the case for determination on the merits of the case.
- (5) The motion to strike the third claim of the Complaint was taken with the case.
- (6) The motion for severance on behalf of individual circuit clerks and motions for separate trial of claims was deferred until after discovery was completed, but the Court stated that arrangements would be made to insure that none of the registrars would be kept in attendance at the trial unnecessarily.
- [fol. 2035] (7) The Government's motion for production of records under Rule 34 was granted.
- (8) The defendants were given 30 days from March 12 in which to file their answers.

The Court emphasized the importance of going forward with discovery. Judge Brown stated, after announcing the Court's decision, "that the discovery should go forward with vigor" and that the Court would then make disposition as to the trial date.

May 13, 1963

The answers of the defendants were filed.

May 17, 1963

Defendant State of Mississippi served interrogatories on the plaintiff.

June 10, 1963

Defendant Smith, registrar of voters of Coahoma County, Mississippi, served interrogatories on the plaintiff.

June 20, 1963

Defendant Easley, registrar of voters of Claiborne County, Mississippi, served interrogatories on the plaintiff.

[fol. 2036]

July 8, 1963

Defendant Wiggins, registrar of voters of Lowndes County, Mississippi, served interrogatories on the plaintiff.

July 30, 1963

On May 20, 1963, and again on July 19, 1963, the Defendant State of Mississippi filed supplemental briefs in support of its motion to dismiss. On July 30, the defendant State moved the Court to dispose of the motion to dismiss after oral argument and prior to consideration of the merits.

September 1, 1963

The United States filed its Answers to Interrogatories. The answers cover the factual basis to support the plaintiff's claims for relief. The answers to the interrogatories are contained in seven volumes. These volumes contain the following material:

1. Names of Persons Contacted Names of Agents
and Attorneys

This volume contains the names, race, type of statement given, educational level and other background information on each person contacted by agents of the plaintiff in connection with this cause and the names and addresses of agents of the plaintiff who contacted or interviewed any one in connection with this cause.

2. Statistics Census-Registration-Voting 1890-1962

This volume covers State-wide registration statistics by county and by race, with dates for the following specific dates: 1890, 1899, 1954, 1955, 1960, 1962.

[fol. 2037] 3. Purpose of Laws 1890, 1954, 1960, 1962
Decrease in Negro Registration 1890-1954

This volume contains the factual basis showing (1) the racially discriminatory purpose of the registration laws under attack, (2) white primary practices in Mississippi, and (3) the decrease in Negro registration since 1890.

4. Comparison of Education for Negroes and White Persons, 1890-1963

This volume contains the facts which show that in Mississippi public education provided for Negroes was and is inferior to the public education provided for white persons.

5. Answers Appendix A

This volume contains the answers to various interrogatories which did not require great detail. In addition, the Appendix to this volume details the factual basis and methods by which white political supremacy was established and maintained in Mississippi prior to the implementation of the constitutional interpretation test in March 1955.

6&7. Appendix B 1 & 2

These two volumes include, by county, factual data since March 24, 1955, the date of implementing the interpretation test, that Negroes have not been permitted to register since the adoption of the test. In addition, an analysis of the application forms of certain counties shows non-uniform administration of the voting laws [fol. 2038] under attack, favored treatment to white persons in administering these laws, and the unlimited discretion vested in the registrars to administer this test.

September 13, 1963

The United States filed its notice to take the oral depositions of thirteen registrars and one deputy registrar in certain Mississippi counties. Prior to this time the United States had been negotiating with the lawyers for the defendants to set dates and places for taking the depositions of the defendant registrar without notice.

We were able to make arrangements and had set dates to take the depositions of two of the defendant registrars. The defendants moved to quash the taking of depositions on the grounds that it placed a hardship on them and that the depositions should not be taken until jurisdiction of the Court had been determined. After an oral argument, Judge

Cox entered an order staying the depositions until further order of the Court "to enable the Court as re-constituted on September 12, 1963, to organize and become familiar with the issues and decide at a conference to be called by the three judges just what issues will be presented to and decided by the Court so as to make more apparent to the parties just what testimony may be considered and desirable and necessary." Thus, no depositions have been taken.

In view of the difficulty and delay which we have experienced and undoubtedly will experience in pressing for further discovery by way of depositions or otherwise, we have concluded to forego any further depositions except for those absolutely necessary because witnesses are beyond the reach of the Court's subpoena power and will not voluntarily make themselves available for trial. As to those limited depositions, we will notice and take them after the case is set for trial at a specific time.

[fol. 2039] The issues which are involved in this case are:

1. Suit Against the State—

The legal issue is, in this attack on the constitutionality of Mississippi voting laws whether the State, by virtue of the constitutional attack on the voting law and by virtue of the Civil Rights Act of 1960 (Section 601b), which permits joining the State as a defendant, whether the State is a proper party in this litigation. As indicated, the defendant State has filed supplemental briefs on this issue. We will file a short reply to their briefs by November 1, 1963.

2. Constitutionality of Certain Laws—

The laws which are attacked as being invalid in this case are:

- a. *Section 244 of the Mississippi Const.*, as amended (and its implementing legislation)—provides for the constitutional interpretation test and for the duties and obligation test.
- b. *Section 241-A of the Mississippi Constitution*, adopted in 1960 (and its implementing legislation)—

provides for a good moral character test as a prerequisite to registration.

c. *Section 3209.6 of the Mississippi Code*, as amended in 1960—permits the destruction of Sworn Written Application Forms for Registration by local registrars.

[fol. 2040] d. *House Bill 900*, 1962 (amended Section 3212 of the Mississippi Code)—directed that the statute which required application forms to be completed by applicants without assistance was mandatory and that all blanks on the application must be “properly and responsively” completed and that the oath, and the application form must be signed separately by the applicant.

e. *House Bill 903*, 1962—provides that applicants must return to the registrar’s office after the waiting period for publication, to determine whether he has passed or failed registration. This Bill also provides that the registrar may not tell applicants who fail to qualify for registration the reasons for failure because that might constitute assistance on a subsequent application.

f. *House Bills 822 and 904*, 1962—which provide the procedure for publication of names of applicants for registration in the newspaper and establishes the right of any qualified voter to challenge the qualifications of any applicant. This statute also sets up an administrative procedure to be followed in the event an applicant is challenged.

3. The Relief—

a. What should be the specific terms of the injunction. This will involve a determination as to the qualifications and a standards to be required for registration in the event of a declaration of unconstitutionality.

[fol. 2041] b. In the event of a finding of a pattern and practice of discrimination there is an issue to the effect of such a finding and the procedure to be used in the event of invocation of the referee provisions of the Civil Rights Act of 1960, 42 U.S.C. 1971(c).

These items—suit against the State, the constitutionality of the specified Mississippi laws, and the relief—are, I believe, a fair statement of the issues which are involved in this case.

To facilitate the trial in this case, the United States is preparing a list of exhibits with exhibit numbers which we plan to introduce in evidence. This list will be sent to the defendants by November 4, 1963, and the documents themselves will be made available to the defendants in Jackson, at the United States Attorney's office beginning that day. The exhibit list will contain columns so that the defendants, after they have had an opportunity to look at the exhibits, may note any questions as to the authenticity of any document. This way we can identify the document about which there is no dispute as to authenticity. Proof of authenticity of these documents would otherwise take a great deal of time at the trial.

In addition, the United States will file, by November 4, 1963, supplementary answers to the interrogatories which were filed on September 1. This will bring up to date the material which we have previously set out in those answers.

Finally, this case deserves the immediate attention of this Court. It involves the constitutionality of Mississippi voting laws. The United States claims these laws are invalid because their purpose and effect is to deprive Negroes of the right to vote without distinction of race or color. The rights involved are very important. As the Court of Appeals recently stated in *United States v. Atkins* (C.A. 5 Sept. 30, 1963):

[fols. 2042-2053] The right to vote is one of the most important and powerful privileges which our democratic form of government has to offer. Although states may regulate this right, they are subject to close judicial scrutiny when doing so and are limited by the Fifteenth Amendment in addition to the Fourteenth.

Accordingly, we believe that the matter of going forward with the trial and decision in this case is of extreme urgency.

I have sent copies of this letter to the attorneys for the defendants.

Sincerely, John Doar, First Assistant Civil Rights Division

[fol. 2054]

[File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

UNITED STATES DISTRICT COURT, OFFICE OF THE CLERK,
SOUTHERN DISTRICT OF MISSISSIPPI

Jackson, Mississippi

October 21, 1963

NOTICE OF HEARING ON ALL MOTIONS—Filed October 22, 1963

Hon. Robert F. Kennedy, Attorney General of the United
States of America, Washington, D. C.

Hon. Robert E. Hauberg, United States Attorney, Post
Office Box 2091, Jackson, Mississippi.

Hon. Ross R. Barnett, Governor of the State of Mississippi,
Jackson, Mississippi.

Hon. Joe T. Patterson, Attorney General of the State of
Mississippi, Jackson, Mississippi.

Hon. Dugas Shands, Jackson, Mississippi, Hon. Charles
Clark, Jackson, Mississippi, Hon. T. F. Badon, Liberty,
Mississippi, Hon. Joe T. Drake, Port Gibson, Mississippi,
Hon. Leon Porter, Clarksdale, Mississippi, Hon. Aubrey
Bell, Greenwood, Mississippi, Hon. W. G. Burgin, Jr.,
Columbus, Mississippi, Hon. B. D. Statham, Magnolia,
Mississippi, Hon. Semmes Luckett, Clarksdale, Missis-
sippi, Hon. Chester Curtis, Clarksville, Mississippi, Hon.
Hardy Lott, Greenwood, Mississippi, Hon. W. H. Jolly,
Columbus, Mississippi, Hon. Joe G. Gordon, Liberty,
Mississippi.

Gentlemen:

Civil Action No. 3312

Re: UNITED STATES OF AMERICA,

vs.

JACKSON DIVISION, STATE OF MISSISSIPPI; ROSS B. BARNETT, JOE T. PATTERSON, HEBER A. LANDER, AS MEMBERS OF THE MISSISSIPPI STATE BOARD OF ELECTION COMMISSIONERS; H. K. WHITTINGTON, CIRCUIT CLERK AND REGISTRAR OF AMITE COUNTY; MRS. PAULINE EASLEY, CIRCUIT CLERK AND REGISTRAR OF CLAIBORNE COUNTY; J. W. SMITH, CIRCUIT CLERK AND REGISTRAR OF COAHOMA COUNTY; MRS. MARTHA TURNER LAMB, CIRCUIT CLERK AND REGISTRAR OF LE FLORE COUNTY, T. E. WIGGINS, CIRCUIT CLERK AND REGISTRAR OF LOWNDES COUNTY; WENDELL R. HOLMES, CIRCUIT CLERK AND REGISTRAR OF PIKE COUNTY.

Please Take Notice that the above-entitled case has [fols. 2055-2081] been set for the hearing of all motions now pending and for such other matters as either side may desire to present to the Court and for such matters as the Court may desire to present, at Meridian, Mississippi, on Wednesday, October 30, 1963, at nine-thirty (9:30) o'clock, A.M.

Sincerely, Loryce E. Wharton, Clerk, United States District Court, Southern District of Mississippi.

By: E. Mathison, Deputy Clerk.

[fol. 2082]

[File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action No. 3312

[Title omitted]

SUPPLEMENTAL ANSWERS TO INTERROGATORIES OF STATE OF
MISSISSIPPI; MRS. PAULINE EASLEY, CIRCUIT CLERK AND
REGISTRAR OF CLAIBORNE COUNTY; J. W. SMITH, CIRCUIT
CLERK AND REGISTRAR OF COAHOMA COUNTY; T. E. WIG-
GINS, CIRCUIT CLERK AND REGISTRAR OF LOWNDES COUNTY
—Filed October 30, 1963.

Answers
Appendix A

[fol. 2083] SUPPLEMENTAL ANSWER TO INTERROGATORY No.
11, WIGGINS

(Volume: Answers p. 37-38)

In this supplemental answer to this interrogatory, the identifying number assigned to the persons in the Supplemental List of Persons Contacted is used instead of the persons's name, address, age and education. The place is always the office of the Circuit Clerk, Lowndes County Courthouse, Columbus, Mississippi: Mr. Wiggins was present and registered each of the persons listed below, unless the contrary is indicated. Other persons present with such information as plaintiff has about them are set forth in the list. Unless otherwise indicated, all such persons are white.

The persons with the information desired are listed as follows:

Number	Occurrence	Persons Present	Nature of the Opportunity
44531a	7/8/55	Emmit McIlwain, Jr. Artesia, Miss.	Allowed to register without interpreting constitution or giving understanding of duties of a citizen.
44534a	4/6/57	Shirley Hildreth, his wife	They were allowed to complete this application at the same time.
44535a	April, 1959	Grady R. Usery, her husband and an unknown female clerk.	She and husband allowed to register at the same time.
[fol. 2084]			
44540 & 44541	1/13/56	Mrs. Poole, a clerk	They were allowed to complete forms at the same time, and asked each other questions.
44543 & 44544	1/24/56	Two female clerks	They were allowed to complete form at the same time; she explained the meaning of some of the words on the application form to him.

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Number	Occurrence	Persons Present	Nature of the Opportunity
44546	2/1/58	A female clerk	Was told her precinct.
44548	4/22/55		Was told her precinct.
44550	3/18/58		Was told his precinct.
44552	2/29/60	Employees of office	Mr. Wiggins clarified some questions for him.
44556	12/24/58	Zeb Nabocs, her husband	She and husband filled out applications at the same time; they helped each other with some of the questions.
44563	1/31/57		Is registered to vote but never went to the Lowndes County Courthouse to register.
44564	1/25/58	Lady Clerk	The clerk told her where to sign the form; what the precinct was, called an omission she had to her attention. She was registered despite the omission.
[fol. 2085]			
44566	1/26/57		She was registered although she copied her answers from material printed or typed on the form. She was told the precinct.
44567	1/31/58	His wife	He and his wife allowed to register at the same time.
44568	6/8/59	His wife	He and his wife allowed to register at the same time.
44572	4/29/55	Her husband and a female clerk	She was not required to complete an application form and her husband signed the registration book for her.

Number	Occurrence	Persons Present	Nature of the Opportunity
44573	6/3/55	Not Known	He was registered to vote despite the fact that he cannot read or write.
44574	6/20/59	Mrs. Clarence Dale of Caledonia	She was registered despite the fact that she did not know her precinct
44575	3/19/60		He was registered despite the fact that he does not know his precinct.
44579	6/15/56	His wife	He and his wife allowed to complete application forms simultaneously.
[fol. 2086]			
44584 & 44585	In 1960		Allowed to register at the same time; he was told his precinct.
44592	1/27/61		The section of the constitution was read aloud to him before he copied it.
44593 & 44594	1/28/61		Allowed to register at same time.
44596	3/10/61	His wife	He and his wife allowed to register at the same time; he was told what to put on his application by Mr. Wiggins.
44599	6/29/61	Her daughter, Betty Jean, and a female clerk who helped process her.	Mr. Wiggins talked to her about answering the application form and told her "citizens had to know about the law."
44600	9/15/61	Female clerk who processed her registration.	She was told to put her husband's name in the answer to item 13 by the female clerk.
44602	1/9/62		Assisted in answering question 19.
44604	1/13/62		Assisted in answering question 19.

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Number	Occurrence	Persons Present	Nature of the Opportunity
44605	3/2/62	Woman clerk	He was finished answer to question on his application and was assisted in answering question 19 and 20 by the woman clerk.
[fol. 207]			
44606	4/5/62	A female clerk	Was given assistance by the female clerk in answering question 19 and 20.
44610	12/21/62	A female clerk	He was assisted in his answer to question 20 by the female clerk.
44611	1/12/63	A female clerk	He was allowed to pick the section he wanted to interpret.
44615	1/19/63	A female clerk	She and her husband allowed to fill out their forms at the same time; the clerk told her where to put some of her answers; she was allowed to choose her own section.
44616	1/28/63		Mr. Wiggins aided him in answering question 20; he was also told his precinct.
44618	1/29/63	Mr. Boswell	She assisted him in answering question 20, and told him his precinct.
44620	2/4/63		Assisted by Mr. Wiggins in completing the form
44627	1/9/63		Aided by Wiggins in completing his application.
44628	1/14/63	Royall Brock his brother	Aided by Wiggins in answering question on the form, and showed the questions he had omitted.

[fol. 2088]
Number

Occurrence

Persons
Present

Nature of the
Opportunity

44630

1/31/63

A female clerk

Aided by Mr.
Wiggins in answer-
ing question 19.

44633

1/2/63

He was allowed
to choose his
own constitutional
section.

[fol. 2089] SUPPLEMENTAL ANSWER TO INTERROGATORY No.
12, WIGGINS

(Volume: Answers p. 39)

In this supplemental answer to this interrogatory, the identifying number assigned to the person in the Supplemental List of Persons Contacted is used instead of the person's name, address, age, and education. Each of the persons listed herein was contacted by or on behalf of the plaintiff. On the basis of this contact, the educational level of the person, the occupational status of the person, and an assessment of his ability to read and write, the plaintiff has concluded as to each of these persons that he is or was no better qualified to register to vote than those Negro citizens listed in the Answer to Interrogatory No. 11, Wiggins (Volume: Answers p. 37-38). The place of said registration for each of the persons listed below is the office of the Circuit Clerk in the Lowndes County Court-house in Columbus, Mississippi. Mr. Wiggins was present and registered each of the persons listed below, unless the contrary is indicated. Other persons present with such information as plaintiff has about them are set forth in the list. Unless otherwise indicated, all such persons are believed to be white.

The persons with the information desired are listed as follows:

[fol. 2090]

Number	Date Registered	Persons Present
44530a	4-9-55	Not known.
44531a	7-8-55	Emmett McIlwain, Jr., Artesia, Miss.
44532a	3-27-58	Unknown white male was in office, but left.
44534a	4-6-57	Shirley Hildreth, his wife.
44535a	April, 1959	Grady Ralph Vasery, her husband, and an unknown female clerk.
44542	6-30-55	—
44543	1-24-56	Johnnie Edburn Nichols, her husband; two female clerks.
44544	1-24-56	Gladys Nichols, his wife; two female clerks.
44546	2-1-58	A woman clerk.
44547	8-22-59	Clerks in the office.
44548	4-22-55	—
44550	3-18-58	—

Number	Date Registered	Persons Present
44551	1-23-60	A female clerk.
44552	2-29-60	Employees of office.
44554	1-7-56	—
44555	2-27-56	Possibly a woman clerk waited on her.
44556	12-24-58	Zeb Nabor, her husband.
44557	6-27-56	—
44558	1-22-58	Wiggins not there; a female secretary about 30 at the time.
44559	1-28-58	—
[fol. 2091]		
44560	1-29-59	Female clerk; other people registered at the same time, she did.
44563	1-31-57	Not known.
44564	1-25-58	Wiggins not there; a lady clerk processed her.
44565	1-12-59	—
44566	1-26-57	—
44567	1-31-58	His wife registered with him.
44568	6-8-59	His wife registered with him.
44571	1-20-60	—
44572	4-29-55	Her husband accompanied her; a female clerk waited on them.
44573	6-3-55	Not known.
44574	6-20-59	Mrs. Clarence Dale, of Caledonia.
44577	1-31-57	—
44587	12-31-60	Not known.
44589	1-17-61	Her husband, Charles B. Ray, and a woman clerk.
44592	1-27-61	—
44596	3-10-61	His wife.
44597	6-5-61	—
44599	6-29-61	Her daughter, Betty Jean; a female clerk who helped process her.
44600	9-15-61	A female clerk processed her registration.
44601	7-11-61	A middle-aged female clerk.
44603	1-13-62	A female clerk.
[fol. 2092]		
44605	3-2-62	A female clerk.
44606	4-5-62	A female clerk.
44607	9-28-62	Mrs. Shannon's daughter, Mrs. Leon McInnes; and Laura Bazzell, a clerk in the office.
44609	1-18-63	A female clerk.
44613	1-16-63	Not known.
44614	1-19-63	Not known.
44616	1-28-63	—
44620	2-4-63	—
44623	1-30-62	Not known.
44624	1-30-62	—
44628	1-14-63	Bagoll Brock, his brother.
44629	1-21-63	Not known.
44620	1-31-63	A female clerk.

[fol. 2093] SUPPLEMENTAL ANSWER TO INTERROGATORY No.
8, EASLEY

(Volume: Answers p. 40)

In about 1959, Barbara Jean Brown, a white citizen of Claiborne County, residing at Concord Trailer Camp, Natchez, Mississippi did not know her election district at the time she registered and yet she was registered by Mrs. Easley, who was the only other person present at the time.

On January 26, 1963, Patricia Hines Neil, accompanied by her father, E. L. Hines, was registered to vote by Mrs. Easley and was told her election district by Mrs. Easley.

[fol. 2094] SUPPLEMENTAL ANSWER TO INTERROGATORY No.
15, EASLEY

(Volume: Answers p. 45)

Barbara J. Brown, white, was allowed to have in front of her as she interpreted, the book containing the constitutional section she was to interpret. (See Addition To Answer to Interrogatory No. 8, Easley hereof for details.)

Barbara J. Brown was registered without knowing her election district. (See Addition to Answers To Interrogatory No. 8, Easley hereof for full details.)

Patricia Hines Neil was told her election district by Mrs. Easley. (See Addition to Answer To Interrogatory No. 8, Easley hereof for full details.)

Everett R. Scurlock, white, grant Gulf, Mississippi, on October 27, 1961 was registered to vote by telling the woman whom he assumed to be the registrar of voter his name, age, residence and occupation and did not have to fill out an application form. He was accompanied by John Gladjo and L. E. Moore, both white.

(L. E. Moore, white, General Delivery, Port Gibson, Mississippi, on October 27, 1961 was registered to vote by telling the woman who registered him his name, age, residence and other questions.* He was not required to fill out a form. He was accompanied by John Lewis or John Gladjo and Everett R. Scurlock, both of whom are white.

[fol. 2095] Edward M. Hudson, white 322 4th Street McComb, Mississippi was allowed to pick out the constitutional section that he interpreted. He registered by himself on June 24, 1959 by a white woman.

Martha Betty Davenport, white, Route 2, Box 97 A, Port Gibson, Mississippi, had difficulty in interpreting the section of the constitution she was assigned and told Mrs. Easley that she did not understand what it meant. Mrs. Easley told her what to write down for the interpretation. She was accompanied by her son Billy Ray Davenport.

Martha Betty Davenport, above, told Mrs. Easley that she did not understand Question 20 concerning the duties and obligations of citizenship. Mrs. Easley told her what to write down for an answer.

Martha Betty Davenport, above, and her son, Billy Ray Davenport, were allowed to fill out application forms at the same time, and one was not required to wait until the other was finished.

Negro registration experiences of which Plaintiff presently is aware have already been provided to the defendants and indicate that many of them have had great difficulty in becoming registered to vote even after completing an application form, were delayed or refused registration and were not given any of the opportunities listed above for the white applicants.

[fol. 2096] ANSWER TO INTERROGATORY 16

(Volume: Answers p. 46)

Plaintiff is presently aware of the following white persons listed below who have been allowed or permitted by this defendant to register to vote who were or are no better qualified than Negro citizens of Claiborne County who have been denied the right to register to vote. Also there are Negro citizens in Claiborne County who have been denied registration whose educational level is equal to or substantially higher than other white persons who are registered (See Answer to Interrogatory No. 13 a, b, c, c, and Appendix B Part I pp 39-1 to 39-6). The date on which these persons below were allowed to register is

listed following the name and address. Plaintiff basis its belief on interviews and/or on the low level of formal education of some of the people.

Büfkin, Mrs. Jock D.	Hermanville, Mississippi	1-31-61
Davenport, Martha Betty	Route 2, Lake Glaiborne	8-25-62

(See Additional Answer to Interrogatory 15, above for addition details.)

Gladjo, Edmond E.	Port Gibson, Mississippi	6-3-61
Moore, L. E.	Port Gibson, Mississippi	10-27-61

(See Additional Answer to Interrogatory, above, for more details)

Suenlock, Everett	Ground Gulf	10-27-61
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(See Additional Answer to Interrogatory above, for more details)

Weller, L. T.	810 Farmer Street Port Gibson	1-27-62
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[fol. 2097] DISTRICT OF COLUMBIA:

Before me, the undersigned Notary Public, personally came and appeared D. Robert Owen, Attorney, United States Department of Justice, who being by me first duly sworn, did depose and say:

That he is the person who has signed the above and foregoing Answers to Interrogatories of State of Mississippi, J. W. Smith, Mrs. Pauline Easley, and T. E. Wiggins, in his capacity as Attorney for the United States Department of Justice and that the answers given over his signature are true and correct to the best of his knowledge.

D. Robert Owen.

Sworn to and subscribed before me this 29th day of October, 1963.

Louis E. McDonough, Notary Public.

My Commission Expires July 31, 1967.

[fol. 2098] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action No. 3312

[Title omitted]

SUPPLEMENTAL ANSWERS TO INTERROGATORIES OF STATE OF
MISSISSIPPI; MRS. PAULINE EASLEY, CIRCUIT CLERK AND
REGISTRAR OF CLAIBORNE COUNTY; J. W. SMITH, CIRCUIT
CLERK AND REGISTRAR OF COAHOMA COUNTY; T. E. WIG-
GINS; CIRCUIT CLERK AND REGISTRAR OF LOWNDES COUNTY
—Filed October 30, 1963.

Appendix B

1 & 2

[fol. 2099]

Coahoma #2

Part I

A. (Continued)

14062 9-26-63
and Delay
14063 Smith-R

They went together to register to vote and were required to apply one at a time. The Registrar and a lady waited on them. No one else was there to register while they were there.

[fol. 2100]

Coahoma County #2

Part II (Supplemental)

Supplemental Answers to Part C on Page 2-8

Additional Standard Answers to Question 20 by White Persons in 1962

Name & Date of Application	Answer
Keck, Gertrude E. 1-3-62	1. To abide by all the laws of Miss. & government of the United States. 2. Duty to vote at all elections 3. Pay all taxes.
Graham, Evelyn Pauline 1-19-62	Register to vote, pay taxes, and be a law abiding citizen.
Amerson, John T. 1-22-62	Pay my taxes and vote in all elections and be a lawbiding citizen
Haire, Luther 1-23-62	Pay your taxes vote in all elections and be a good citizen abide by the law.
Lilly, Maurine G. 1-29-62	Pay your taxes & vote in all elections. Take an interest in all community affairs.

Name & Date of Application	Answer
Green, D. H. 1-29-62	To exercise the right to register and vote in all elections of the city, county & state and be a law abiding citizen.
White, Mary Ethel 1-29-62 (Mrs. Hal)	Pay your taxes, vote and be a law abiding citizen.
Gordon, Roy Mrs. 1-30-62	We should be a good citizen vote in all elections. Be law abiding citizen.
Dennis, Dorothy Ann 1-30-62	Vote and pay all taxes and be a law abiding citizen.
Sells, Kent Mrs. 1-30-62 [fol. 2101]	Pay all taxes vote in all elections. Be a law abiding citizen.
Barkley, Hugh A. 1-31-62	A person to be a good citizen should abide by the laws of the state, pay taxes, and vote in all elections.
Mayonr, Irma Lee McCool 1-31-62 (Mrs. R. L.)	To be a citizen of the United States you must reside in the state, you must pay your poll taxes. Vote in all elections, be a law abiding citizen.
Gaines, Gracie Hudson 1-31-62 (Mrs. Joseph W.)	Pay all taxes and vote in all elections make a good citizen.
Young, William Edmond Jr. 2-1-62	It is my understanding that the duties and obligations of citizenship of the constitutional form of government include: Must be a law abiding citizen, Must pay all taxes, must vote in all elections.
McFarland, Prentis H. 3-1-62	I think I should respect the law and don't do anything that would be against the law and pay all taxes and vote in all elections.

**Name & Date of
Application**

Answer

McGinnis, Gladys T. 3-12-62 (Mrs. John) Pay all taxes vote in all elections and be a law abiding citizen.

McDonald, Inez C. Mrs. 3-13-62 To vote in all elections pay all taxes protect all property in our city be law abiding citizen.

Wilkins, Clarence Charley 6-28-62 Pay all taxes vote in all elections abide by the laws of our county and State.

[fol. 2102]

Desoto County #3

Part II

Application Forms

1. Number of Application Forms and Period They Cover

On May 23, 1963, 627 DeSoto County application forms were photographed. The rejected forms of two Negroes are dated April 8 and September 8, 1960. The remaining forms cover the period from September 1, 1961 to April 18, 1963.

The forms executed prior to June 1, 1962 bear no indication as to whether the applicants were accepted or rejected. Of this group the forms of 238 persons whose names appear in the Registration Books were counted as accepted and the forms of 9 persons whose names do not so appear were counted as rejected.

The breakdown of forms is as follows:

	Accepted	Rejected
White	567	26
Negro	2	9
Race		
Unknown	0	23

2. Analysis of Forms *

a. Selection of Sections of the Constitution

Negro applicants were given 1 of 8 lengthy or difficult constitutional sections which were given to none or relatively few white applicants:

Section	White	Negro	No. of Lines
29	12	3	3
59	0	1	10
84	3	1	3
108	9	1	2
129	0	1	3½
142	0	2	3½
147	0	1	7½
198	0	1	2

Numerous white applicants were given relatively short or easy sections which no Negroes received:

Section	No. of Whites	No. of Lines
30	42	1
50	62	2½
67	25	1½
74	29	2
75	52	2
83	62	2
92	39	2
130	39	2

b. Assistance to Accepted White Applicants

Assistance to white applicants takes the form of identical or substantially identical answers to Question 19 (interpretation) and Question 20 (duties and obligations) and check marks or Xs indication to the applicant where the form should be signed.

* The breakdown does not include forms executed by persons whose race is unknown.

[fol. 2104] 1. Question 19-interpretation

A

Interpretation

Name: Henry A. Miller
 Date: 1/2/62
 Section: 30

"I cannot be put in jail for owing a debt"

Name: Mrs. Henry A. Miller
 Date: 1/2/62
 Section: 30

"I cannot be put in jail for owing a debt."

B

Interpretation

Name: John H. Galloway
 Date: 1/26/62
 Section: 30

"It means I cannot be put in jail for not paying debts"

Name: Mrs. John Galloway
 Date: 1/25/62
 Section: 30

"I cannot be put in jail for not paying debts"

C

Interpretation

Name: James A. Tippet
 Date: 5/4/62
 Section: 30

"The term Debt Does Not Extend to or embrace our pecuniary obligation imposed by the State as a Punishment for Crime" *

Name: Wilma F. Tippet
 Date: 5/4/62
 Section: 30

"The term debt does not extend to or embrace any pecuniary obligation imposed by the state as a punishment for crime. A civil suit may be filed against a debtor" *

* The interpretation given by the Tippetts appear among the annotations to Section 30 of the Constitution.

D

Interpretation

Name: Judy J. R.
Humphreys
Date: 1/26/62
Section: 30

"No one can be put in jail
for owing a debt."

[fol. 2105]

E

Interpretation

Name: Mrs. Leonard
Perryman
Date: 1/26/62
Section: 30

"No one shall be put in jail
for owing me a debt."

Name: Mrs. Martha R. Todd
Date: 4/4/62
Section: 30

"No one can be put in jail
for owing one a debt."

Name: Ruby V. Nix
Date: 4/4/62
Section: 30

"No one should be put in
Jail owing you debt."

F

Name: Riley P. Denman
Date: 2/3/62
Section: 33

"The state of Mississippi
shall have a house of repre-
sentatives and a senate"

Name: Mrs. Riley P.
Denman
Date: 2/3/62
Section: 33

"The state of Mississippi
consists of a legislation com-
pose of a senate and house
representativ"

G

Name: Alton D. Holden
Date: 1/20/62
Section: 37

"Before a person can be
elected & can serve in the
legislature he shall be elected
in his county or district as
provided by law."

Name: Mrs. Alton D. Holden
 Date: 1/20/62
 Section: 37

"Before a person can serve
 for legislature he can be
 Elected in his district as
 provide be law four years"

H

Name: T. J. Meek
 Date: 3/24/62
 Section: 108

"When legislature dose
 away with an office his salary
 stops"

Name: Mrs. T. J. Meek
 Date: 3/24/62
 Section: 108

"When legislature does away
 with an office the salary
 stops"

I

Name: William W. Hamblin
 Date: 1/26/62
 Section: 130

"The lieutenant governor
 draws the same salary as
 the speaker of the house"

[fol. 2106] Name: Mrs.
 William W. Hamblin
 Date: 1/26/62
 Section: 130

"The Lieutenant-governor
 draws the same salary as
 the speaker of the house."

2. Question 20-Duties and Obligations

A

The following accepted white applicants gave as their
 answer to Question 20 "to be a law abiding citizen," or
 a slight variation thereof.

Name	Date
A. A. Daugherty	11/3/61
F. G. Calvi	12/16/61
H. A. Miller	1/2/62
Mrs. H. A. Miller	1/2/62
J. M. Kennamore	1/12/62
P. Williams	1/19/62
Mrs. L. C. Johnson	1/22/62
Mrs. L. Perryman	1/26/62
D. K. Riggs	1/26/62
C. T. Thomas	1/27/62

Name	Date
J. H. Hardy	1/27/62
B. R. Worsham	1/29/62
D. R. Rayburn	1/29/62
Ben E. Wilson	1/30/62
B. J. Holden	1/30/62
Mrs. R. P. Denman	2/3/62
M. A. Prater	2/9/62
J. W. Cartwright	3/8/62
R. L. Crisp	3/16/62
L. C. Simmons	3/16/62
Mrs. L. C. Simmons	3/16/62
A. S. Hemker	3/17/62
T. J. Meek	3/24/62
Mrs. T. J. Meek	3/24/62
R. V. Nix	4/4/62
Mrs. M. R. Todd	4/4/62
C. K. Vincent	4/9/62
E. A. McKee	9/28/62
A. L. Jones	10/15/62
R. J. Loomis	10/19/62
Mrs. L. Darling	10/30/62
D. L. Brown	11/9/62
M. A. Flynn	11/10/62
M. J. Stone	12/8/62
M. E. Childress, Jr.	1/18/63
T. W. Peyton	1/19/63
L. L. Harris	1/21/63
G. F. Hensley	1/22/63
H. B. McDowell	1/28/63
R. C. Williams	1/28/63
Mrs. T. W. Farris	1/29/63
E. H. Looney	2/1/63
E. Easley	2/25/63
M. L. Gadd	3/2/63
Wilma Woody	3/8/63

[fol. 2107] The following accepted white applicants gave as their answer to question 20 "be a law abiding citizen and in elections," or a slight variation thereof.

Name	Date
T. M. Lewis	10/27/61
Mrs. T. Mc. Carley	10/27/61
Mrs. B. Davis	11/30/61
J. M. Stewart	1/17/62
Mrs. C. E. Fiddler	1/19/62
E. P. Rutledge	1/20/62
M. A. Earnheart	1/23/62
Mrs. I. M. Jones	1/24/62
B. Whitten	1/24/62
H. R. Thomas	1/25/62
Mrs. R. M. Prine	1/26/62
Judy J. R. Humphreys	1/26/62
W. M. Hamblin	1/26/62
Mrs. R. M. Hamblin	1/26/62
G. C. Patterson	1/27/62
D. J. Patterson	1/27/62
W. T. Hawkins	1/30/62
C. G. Stalilngs	1/30/62
H. B. Garner	2/1/62
J. V. Davis	2/1/62
K. W. Aldridge	2/7/62
Mrs. C. W. Taylor	3/30/62
C. C. Braswell	3/30/62
B. J. Grier	5/18/62
C. W. Grier	5/18/62
G. M. Stacy	5/18/62
B. E. Ward	6/1/62
Mrs. L. Kilpatrick	6/22/62
Mrs. C. Thomas	7/7/62
Mr. C. Pounders	8/4/62
N. E. Vinson	8/7/62
B. L. Spears	9/6/62
K. W. Massey	9/8/62
H. V. Raney	9/10/62
B. J. Gates	9/11/62
C. A. Collin	9/20/62
A. E. Treadway	10/19/62

Name	Date
F. E. Jones	10/22/62
P. I. Carter	10/25/62
L. L. Murphy	10/31/62
G. L. Bobbitt	11/10/62
Mrs. D. M. Sexton	12/1/62
L. Sowell	12/27/62
E. R. Bryant	1/11/63
V. L. Laughter	1/11/63
H. C. Cook	1/21/63
M. S. Goodson	1/25/63
L. C. Pepper	1/25/63
T. R. Berryhill	2/9/63
J. S. Hamilton	2/9/63
C. S. Green	2/28/63
B. D. Burgess	2/11/63
S. R. Bumpous	2/23/63
A. M. Pounders	3/5/63
B. G. Sing	3/12/63
S. Sing	3/12/63
A. E. Coopwood	4/11/63

C

Mr. and Mrs. John W. Merritt registered on January 20, 1962. Their answers to question 20 were:

Mr. Merritt

Mrs. Merritt

You should obey the laws of the constitution You should vote You Should pay your taxes	You should obey the laws of the Constitution You should vote You shoul pay your taxes
--	---

[fol. 2108]

3. Checkmarks and Xs

Check marks or Xs appear at the signature line, oath line, or both on the application forms of the white registrant listed below.

Name	Date
William Alday	11/30/61
Mrs. L. R. Broadway	1/18/62
Alton Holden	1/20/62
Earnestine Holden	1/20/62

Name	Date
Mrs. E. R. Deen	1/29/62
E. R. Deen	1/30/62
Lilly May Bryant	1/30/62
C. C. Crisp	1/31/62
J. D. James	7/9/62
Murphy Rowe, Jr.	10/10/62
D. L. Brown	11/9/62
O. P. Keadle	1/22/63
J. D. Worsham	1/30/63
Jo Ann Hill	2/11/63
R. M. Britt	2/12/63

c. Grading

The application forms of the registrants listed below reflect the lenient qualification standards applied to white applicants between November 30, 1961 and March 8, 1963.

A

Name	Date	Section
Mrs. William E. Alday	11/30/61	116

Section 116: The Chief executive power of this state shall be vested in a governor who shall hold his office for four years, and who shall beinel as his immediate successor in office.

Question 19: "The Chief elesugated of the power shall head his office for four years, and he elegibles to pay his tax evy two years."

Question 20: "While be all law of the state you should pay your tax by years."

[fol. 2109]

B

Name	Date	Section
James L. Herbert	1/6/62	86

Section 86: It shall be the duty of the legislature to provide by law for the treatment and care of the insaane; and the legislature may provide for the care of the indigent sick in the hospitals in the state.

- | Name | Date | Section |
|--------------|--|---------|
| Question 19: | "It shall be the duty of the legislation to provide treatment & care for the hyring & they may provide for the care of the indigent sick by state hospitals" | |
| Question 20: | "I will abide by all laws and corporate with all laws inforced officer & locals of the county" | |

C

- | Name | Date | Section |
|------------------------|---|---------|
| Mrs. W. V. Hooper, Jr. | 1/29/62 | 35 |
| Section 35: | The senate shall consist of members chosen every four years by the qualified electors of the several districts. | |
| Question 19: | "You Should Vote to elect the people to lead your country" | |

[fol. 2110]

D

- | Name | Date | Section |
|---------------|--|---------|
| Ben E. Wilson | 1/30/62 | 130 |
| Section 130: | The lieutenant-governor shall receive for his services the same compensation as the speaker of the house of representatives. | |
| Question 19: | "He makes the same Salary" | |
| Question 20: | "to be a law abiding Sitizen" | |

E

- | Name | Date | Section |
|----------------------|--|---------|
| Mrs. T. B. Sanderson | 1/30/62 | 118 |
| Section 118: | The governor shall receive for his services such compensation as may be fixed by law, which shall neither be increased nor diminished during his term of office. | |
| Question 19: | "Shall serve the the people to the best of his knowledge—and abide the laws" | |

F

Name	Date	Section
Gloria Mae Vaughn	1/31/62	265

Section 265: No person who denies the existence of a Supreme Being shall hold any office in this state:

Question 19: "Anyone who is not a law abiding citizen should not be qualified to vote regardless of his standards. They should also be a citizen of the U.S. and live in the state for a number of years before he can qualify."

Question 20: "I must be a law abiding citizen and live in the state for a number of years before being qualified for any of the duties and obligation of citizenship"

[fol. 2111]

G

Name	Date	Section
P. R. Davis	4/14/62	164

Section 164: A chancery court shall be held in each county at least twice in each year.

Question 19: "Lif at the chancery court will meet twice a year to determine aws & ert"

Question 20: "I certify that I understand my duties & obligations of citizenship under a constitutional form of Government."

H

Name	Date	Section
Nancy Ruth Davis	4/20/62	108

Section 108: Whenever the legislature shall take away the duties pertaining to any office, then the salary of the officer shall cease.

Question 19: "This shall be the law of the state of Mississippi until the constitution amends same"

Name	I Date	Section
M. W. Howath	5/10/62	118

Section 118: The governor shall receive for his services such compensation as may be fixed by law, which shall neither be increased nor diminished during his term of office.

Question 19: "At the beginning of a term of office of the governor the salary, traveling expenses, subsistence & etc. will be fixed and any other expenses other than those designated will be paid personally"

[fol. 2112] The following white registrants omitted signatures on the application forms:

Name	Date
W. W. Vaughn	1/7/62
Roland Lyons	4/14/62
Jo Ann Hill	2/11/63
John L. Gatewood	3/23/63

[fol. 2113] Part III

The following Negroes have been denied the right to vote because of some error or omission on their forms, or by use of the constitutional interpretation test and the duties and obligations test.

Name	Date	Reason
Emma L. Williams	5/22/62	this applicant was told that her form was acceptable but that she had failed to sign her name.
Gladys E. P. Muse	5/22/62	Interpretation test
Goadys E. P. Muse	5/29/62	Interpretation test
Lovell Williams	5/22/62	Interpretation test
Lovell Williams	5/29/62	Interpretation test
Emma L. Williams	5/29/62	Interpretation test

[fol. 2114]

Quitman County #5

Part II

Application Forms

1. & 2. Number and Period Which Forms Cover

The records in Quitman County were photographed by agreement on April 25 and 26, 1963. The records were again photographed on May 28 and 29, 1963. Four hundred and fifty-two forms were photographed. Except for one form dated March 24, 1955, the application forms are for the period between January 30, 1961 and April 25, 1963. Three hundred and thirty-six white persons and 10 Negroes were accepted and registered, and two white persons and thirty-seven Negro applicants were rejected. In addition, there are 13 rejected forms of persons whose race is not presently identified, 50 forms by persons whose race is not presently known were identified by the registrar as accepted applicants, but their names do not appear on the registration or poll books. Most of these forms are dated in 1963, and it is possible that these persons have not as yet returned to sign the registration book. Four applications including, at least, one Negro were not acted upon at the time of photographing.

The analysis of these forms does not include the four pending forms, or the persons whose race is presently not identified.

	Whites	Negro
accepted	336	10
rejected	2	37

[fol. 2115]

3. Analysis of Forms

a. Selection of Sections of the Constitution

Approximately 93% of all white applicants were given sections of the Constitution which only one Negro received. Seventy-six per cent of all white applicants received three sections: Section 8 (All persons resident in this state, citizens of the United States, are hereby declared citizens of the state of Mississippi; Section 14 (No person shall

be deprived of life, liberty or property except by due process of law; or Section 265 (No person who denies the existence of a Supreme Being shall hold any office in this state.) No Negro applicant received either Section 8 or Section 14. One Negro applicant received Section 265. Thirty-seven Negro applications with identifiable sections of the constitution show that they received sections of greater complexity, length or technicality. There are ten rejected applications of Negroes which are incomplete and do not indicate the section received. Sixty per cent of these Negro applicants received relatively technical sections of the constitution to copy and interpret which no white applicant was required to interpret. These sections include section 104 having to do with the statute of limitations in civil cases not running against the state; section 97 concerning the inability of the legislature to revive a remedy barred by any statute of limitations; section 80 concerning the abuse of the taxing power [fol. 2116] by municipal corporations; Section 68, creating a precedence for appropriation and revenue bills in both houses of the legislature at regular sessions; and Section 66, regulating the enactment of laws granting a donation or gratuity for sectarian and non-sectarian purposes.

The following chart provides a detailed analysis of section selection by race during this period.

Group A—Sections given to 93% of the white applicants

Section	White	Negro
14	140	0
8	58	0
265	49	1
92	11	0
207	9	0
108	7	0
28	5	0
83	4	0
209	4	0
20	3	0
35	2	0
123	2	0
157	2	0
164	2	0
23	1	0
30	1	0
33	1	0
34	1	0
37	1	0
67	1	0
250	1	0

Group B—Sections given exclusively to Negro applicants

Section	White	Negro
29	0	1
32	0	4
50	0	1
61	0	2
62	0	1
63	0	2
66	0	1
68	0	1
80	0	1
97	0	1
104	0	5
116	0	1
146	0	1

(fol. 2117)

Group C—Sections given to Negro applicants and some white applicants

Section	White	Negro
15	8	3
22	1	3
39	5	1
73	1	1
74	1	2
166	1	3
167	4	1
215	1	1

b. Assistance

The following white applicants had substantially identical constitutional interpretations and substantially identical statements of the duties and obligations of citizenship in response to Questions 19 and 20 respectively so as to compel a conclusion of assistance. There are no such Negro applications.

Lester, Faye, C.
12-21-61

#19: Every Person has equal rights under the law

#20: To obey the laws of the state and to uphold the laws.

Lester, William W.
12-21-61

#19: Every person has equal rights under the law

#20: To obey and uphold the laws of the state

Turman, Dorothy Ann
1-27-62

#19: Twice each year chancery court shall be held in each county

Turman, Billy Jr.
1-27-62

#19: Twice each year chancery court shall be held in each county

#20: Obey the constitution

Bolton, Betty B.

6-30-62

#19: A citizen of the United States, is a citizen of Mississippi

#20: Blank

[fol. 2118] Golden, John
Preston, Sr.

11-19-62

#19: I think that Section 14 means that no one person shall take the life or liberty of another person.

#20: I understand the duties of citizenship is to be live trulyful, about the government under witch we now live and get out and vote to make this a better government.

Rowland, Allen C.

11-26-62

#19: No one will be able to take my life, freedom, or property from me except by law

#20: To have the right to vote and the right to vote for the person I think that would be right for the office

#20: Follow the duties of the constitution

Bolton, Henry W.

6-30-62

#19: A citizen of the United States, is a citizen of Mississippi

#20: Blank

Adams, Harold W.

11-21-62

#19: I thank that section 14 means the no one person shall take life or liberty of another person

#20: I understand the duties of citizen is to be trulyful about the government under whiche we now live and to get out and vote to make this a better government.

Rowland, Jame E.

11-26-62

#19: No one can take my life liberty or property away from me except by the law

#20: Dute to vote to Whom I choose

Rowland, Caroly K.

11-26-62

#19: No body can take it form you but by law

#20: Dute to vote to had a say & to pick & choose whose I choose.

1316

Madison, Thomas J.
12-28-62

#19: Every person shall
have the right to trial
to defend him self

#20: Every citizen shall
vote

Golden, John Edward
2-6-63

#19: No person's life, lib-
erty or property Shall
be taken except by
legal process

#20: To obey the laws and
support the constitu-
tion of the United
States and the State
of Mississippi

Madison, Gwendolyn C.
12-28-62

#19: Every person shall get
a fair trial to defend
himself

#20: Every citizen should
vote.

Lambert, Oliver Finley
2-5-63

#19: No person life, liberty
or property shall be
taken taken from him
without legal process

#20: To obey the laws and
support the constitu-
tion

[fol. 2119]

c. Grading

1. The following comparison of accepted white appli-
cations and Negro applications rejected on the basis of
their constitutional interpretation illustrates the arbitrary
standard used in granding Question 19 of the application
form.

Negro—Rejected

Jones, Jeff
2-5-63

Q18—§32: The enumeration
of rights in this consti-
tution shall not be
construed to deny and
impair others retained
by, and inherent in,
the people

Q19—Interpretation: This
rights shall be obeyed,
and not used to heart
or harm other

White—Accepted

Morrison, Phyliss Joan
1-25-63

Q18—§28: Cruel or unusual
punishment shall not
be inflicted, nor exces-
sive fines be imposed.

Q19—Interpretation: Cruel
and unusual punish-
ment: 11 am Jus 1107,
constitutional law 31b,

15 am Jus 171 criminal law ss 523 et ref, excessive fines: 15 am Jus 185 criminal law 8 551

Cotton, L. Centrel
2-6-63

Q18—§29: Excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or presumption great.

Q19—Interpretation: That is no one shall be over cheig for bail and that

Banentine, Walter
2-9-63

Q18—§14: No person shall be deprived of life liberty or property except by due process of law.

Q19—Interpretation: Do on to others as you would have them do onto you.

2. The following interpretations submitted by accepted white applicants compels the conclusion that the interpretation requirements of §244 of the Mississippi Constitution are not used as a test for white applicants.

[fol. 2120] Section 14: No person shall be deprived of life, liberty or property except by due process of law.

Group A

Q. 19

Bailey, Jackie
1-21-63

Snyder, Joe Lee
1-23-62

Ryals, Johnni M.
1-25-62

McNemar, William Galton
1-17-62

Unanswered

That we people of the United States have the right to vote or speak as we furnty.

To be free to vote as you see best to your decision.

The Law should have sworn signed statement by election before bringing one in.

Susie Redden
1-31-62

George R. Pickett
3-5-62

Davidson, Joe L.
4-30-62

except by law

It means the way I see it is,
I am a free american and
law abiding citizen

A person should try his best
to live right and the people
at the state will help in every
way possible to keep the
right of the people

Group B—The following accepted white persons recopied
Section 14 in response to Question 19.

1. Annie Lou Davis
1-30-61

2. Haynes, Wilma L.
10-27-61

3. Holley, Marie
1-23-62

4. Westbrook, Mrs. G.
3-28-62

5. Jacobs, Billy
3-31-62

6. Austen, Beatrice
6-16-62

7. Roberson, Charley, W.
12-12-62

8. Karnegay, John P.
12-30-62

9. Boyett, Lavon Arvis
1-24-63

10. Jennings, Evelyn
Marie

1-30-63

11. Jennings, V. J.
1-30-63

12. White, Ernest Eugene
2-11-63

[fol. 2121]. Section 8: All persons, resident in this state,
citizens of the United States, are hereby declared citizens
of the State of Mississippi.

Q. 19

Rodgers, John L.
6-4-62

of United State member or
citizen of the United State of
a American

Stone, Grace Fredian
8-11-62

Self-explanatory

Parker, Mary Jeanette
8-18-62

We the people of the United
States in order to form a
perfect union

Sibert, Dorothy Louise
10-4-62

Honest & true to our State
& our Country & for which
it Stands.

Glenda Fay Pruett
1-12-63

If you are not a citizen you
can't vote in this state.

Hailey, Mrs. Cecile B.
7-24-62

If you live in the U.S. and
a citizen you are a eligible
to vote.

Section 108: Whenever the legislature shall take away
the duties pertaining to any office, then
the salary of the officer shall cease.

Mullina, Mary Elisabeth
3-22-63

My interpretation of the
meaning of the constitution
is that I have a right to vote
for whom I please.

Section 15: There shall be neither slavery nor invol-
untary servitude in this state, otherwise
than in the punishment of crime, wherof
the party shall have been duly convicted.

White, Mrs. Theron
7-3-62

A person cant be convicted
of a crime unless he has been
convicted

[fol. 2122] Section 28: Cruel and unusual punishment
shall not be inflicted nor excessive fines be imposed.

Q. 19

Aldridge, James Franklin
1-25-63

As long as I do the wright
things that a good citizen
should of the state of Missis-
sippi should or any other
State of the United States.

Section 265: No person who denies the existence of a
Supreme Being shall hold any office in
this state.

Cranford, Amy Alice
1-5-63

No one would want to be
arrested by someone or a
law that might be quiet of

Halley, Bobby Dean
3-5-63

Selby, Eva Pearl
4-15-63

the same crime and we would want a just law.

Anyone who has caused death or has aided in such a crime can not hold an office of the state.

I betlieve in God in this State also I believe offices in this states.

3. Question 20

The following white applicants were accepted without completing Question 20:

Morrison, Arnold K.	1/25/62
Hubert C. Moore, Jr.	2/6/62
Cook, Clotilda H.	6/30/62
Bolton, Betty B.	6/30/62
Bolton, Henry W.	6/30/62
Lester, Mary Magaline	9/29/62
Wages, Cecil Jerold	10/27/62
Roberson, Charley W.	12/12/62
Taylor, Sherman Allen	1/22/63
Collins, Phillip D.	1/24/63
White, Ernest Eugenies	2/11/63
Stone, Frederick Green, Jr.	3/14/63

[fol. 2123]

4. Omissions on the Form

Julia V. Maeweather, a Negro, applied to register on April 12, 1963 and was rejected on the basis of an incomplete form. Answers to Questions 3, 7, 11, 13 and the applicant's oath were incomplete or omitted. The following accepted white applicants had similar errors or omissions on their forms.

Name	Date of Application	Error or Omission
Betty Sue Adams	10-27-62	Q. 3 unanswered
Hilbo Christine Bets	10-31-62	Q. 3 unanswered
V. J. Jennings	1-30-63	Q. 7, 11, 13 unanswered
Fred Rock, Jr.	10-29-62	Q. 7, oath incomplete
William David Till	12-13-62	Q. 11, oath incomplete
Gwendolyn Cox Madison	12-28-62	Q. 11 incomplete
Alice Joyce Miller	12-29-62	Q. 11 incomplete
Edward Leon Thornton	1-7-63	Q. 11 incomplete
Gilbert Murray Bridges	1-18-63	Q. 10, 11 unanswered
Jackie Bailey	1-21-63	Q. 10, 11 unanswered
Mrs. Gerald L. Bland	1-22-63	Q. 11 unanswered
Loven Arvis Boyett	1-24-63	Q. 11 unanswered
Mary Jane Cunningham	1-28-63	Q. 11 unanswered
Martha Little	2-6-63	Q. 11 unanswered
Mary Evelyn Griffith	2-9-63	Q. 11 unanswered
Charles Peyton Henry		Q. 11 unanswered
Mary Elizabeth Mullina	3-22-63	Q. 11 unanswered
Royce Laurent Self	3-23-63	Q. 10, 11, 13 (1) unanswered
Charlie Thomas Grant		Q. 11 unanswered
Sandra Ann Garrison	3-30-63	Q. 11, 13 (1) unanswered
Martha Quay Franks Snyder	12-19-62	Q. 13 unanswered
Naomi M. Dye	3-2-63	Oath incomplete
Laurence D. Bells	11-1-62	except for signature
Kenneth Cobb	1-29-63	Oath incomplete except for signature
Montie B. Loster	12-29-62	Oath unsigned
E. E. White	2-11-63	Oath unsigned

[fol. 2124] 5. Similarly, Mrs. Imogene M. Bradley, a female Negro, applied to register on March 22, 1963 and was rejected because she had not been in the precinct for one year. The following white persons completed application forms and registered without having been resident in the precinct for a full year.

Name	Date of Application	Resident in Precinct
Tommie Lee W. Ford	12-17-62	2 weeks
Mondie B. Foster	12-29-62	4½ months
Mrs. Marie Edmondson	1-25-63	4 months
Anne Moore Mc Gaka	1-28-63	1 month

6. Of the 396 forms identified as accepted approximately 266 of the forms designate two places for the applicant to sign—the ——— and the application—250 of these have no signature for the application.

[fol. 2125] Tallahatchie County #6

Part II

Application Forms

1 & 2. Number of Application Forms and Period Covered By Forms

The first application is dated June 30, 1960. There were seventy-six forms made available in the Charleston Court-house for photographing on August 23, 1962. These applications can be divided into categories as follows:

	Accepted	Rejected
White	69	0
Negro	4	3

Tallahatchie has a second county seat at Sumner at which the voting records for precincts in the western part of the county are kept. No application forms were made available when the records at Sumner were photographed on August 24, 1962. None of the application forms photographed at Charleston were by applicants who resided in the precincts served by the Sumner Courthouse.

3. Analysis of Forms

a. Selection of Constitutional Sections—

For white applicants, Mr. Harris used § 1 (60 times), § 265 (5 times), § 20 (1 time), § 106 (1 time), § 240 (1 time), and § 243 (1 time). For Negroes he used § 1 (2 times), § 4 (1 time), § 20 (1 time), § 240 (1 time) and § 257 (1 time).

b. Assistance to White Applicants—

(1) The following 15 accepted white applicants have identical or virtually identical answers to both questions 19 and 20. Each received section 1 of the Constitution to interpret. That section deals with the distribution of the powers of government. In section 1, the sequence of description of the three branches is: "legislative," "judicial" [fol. 2126] and "executive." In the following answers each applicant in question 19 used a sequence different from that of the section: "judicial," "legislative" and "executive."

Part II

Application Forms

Following answers each applicant in question 19 used a sequence different from that of the section: "judicial," "legislative" and "executive."

	Q-19	Q-20
Childers, Mary J. Jan. 30, 1961	"The powers of the state are divided into three distinct departments, they are judicial, legislative, & executive."	"Duties of a good citizen are to uphold the constitution of the U.S. & the state in which you live—to vote & participate in all civic matters to the best of your ability."
Cox, James G. Jan. 31, 1961	"The powers of the state are divided into three distinct departments They are judicial, legislative & executive."	"Dutys of a good Citizen are to uphold the Constitution of the U.S. & the State in which you live. to vote—participate in all civic matches to the best of your ability."
Laurence, (Mrs.) John Jan. 31, 1961	The powers of the state are divided into 3 distinct departments; they are judicial, legislative, & executive."	"Duties of a good citizen are to uphold the constitution of the U.S. and state in which you live. and to vote & participate in all civic matters to the best of your ability."

Q-19

Q-20

Little, Mildred H.
Jan. 31, 1961

"The powers of the state are divided into three distinct departments, they are judicial, legislative & Executive."

"Duties of a good citizen are to uphold the Constitution of the U.S. & the state in which you live—to vote & participate in all Civics Matters to the best of your ability."

[fol. 2127]

Wolfe, Ellawese M.
Feb. 1, 1961

"The powers of the State are divided into three distinct departments, & they are judicial legislative & Executive."

"Duties of a good citizen of the United States of which you live and conduct the orders of the laws, and to vote in all civil matters of your ability."

Kellum, Joe C.
Feb. 4, 1961

"The powers of the State are divided into three distinct departments, they are: judicial, legislative, (&) Executive."

"Duties of a good citizen are to uphold the Constitution of the U.S. & the state in which you live—to vote & to participate in all civic matters to the best of your ability."

Kernodle, George A.
Feb. 4, 1961

"The powers of the state are divided into three distinct departments, they are judicial, legislature, & Executive."

"Duties of a good citizen are to uphold the Constitution of the U.S. and the state in which you live. to vote & participate in all civic matters to the best of your ability."

Evans, Hope
May 12, 1961

"The powers of the state are divided into three distinctive parts The judicial legislative & Executive."

"The duties of a good citizen under a constitutional & state in which you live to the best of your ability."

Rideoute, Charles
Wayne
May 13, 1961

"The power of the state are divided into three distinct departments, they are judicial, legislative, and executive."

"Duties of a good citizen are to uphold the constitution of the United States and the state in which you live to vote and participate in all civic matters to the best of your ability."

Rideoute, Nancy S.
May 13, 1961

The powers of the state of Mississippi are divided into three distinct departments, they are judicial, legislative, and executive.

The duties of a good citizen of the united States are to uphold the law, participate in civic matters, and promote a better understanding through the country.

[fol. 2128]

Mitchell, Hardy
Barclay
June 5, 1961

Q-19

"The powers of the state are divided into three distinct departments; judicial legislative, and Executive."

Q-20

"Uphold the Constitution of the United States and state in which you live."

Mullen, Virginia
Dell
June 6, 1961

"The powers of the state are divided into three distinct departments: judicial legislative and Executive."

"Uphold the Constitution of the United States and state in which you live."

Odom, Troy Biace, Jr.
Aug. 24, 1961

"The powers of the state are divided into three distinct departments, they are judicial, legislative and executive."

"Duties of a good citizen are to uphold the constitution of the United States and the state in which you live to vote and participate in all civic matters to the best of your ability."

Little, Bobby Joe.
Aug. 31, 1961

"The powers of this state are divided into three distinct departments, they are judicial legislative and executive."

"Duties of a good citizen are to uphold the constitution of the United States and the state in which you live to vote and participate in all civic matters to the best of your ability."

Reece, Ernest Ray
Nov. 31, 1961

"The power of the state are divided into three distinct departments which are judicial legislative & executive."

"Duties of a good citizen are to be honest & to uphold the law and the State in which they live & also to uphold the constitution of the United States."

[fol. 2129]

(2) Two accepted white applicants on different days.

Q-19

Rhew, Homer, Guy Jr.
August 28, 1960

"The legislative, judicial, and executive branches of the government function independently the one of the other."

Q-20

"It is the duty of any citizen to uphold the standards of the Constitution and to conduct himself accordingly."

Newson, Johnie D. Jr.
Oct. 3, 1961

"The legislative, Judicial and executive branches of the government function independently the one & the others."

"It is the duty of any citizen to uphold the ——— of the Constitution and to conduct himself accordingly."

(3) Two white applicants on different days.

Q-19

Dickson, Arlas Annette
April 21, 1962

"There shall be three separate departments of the powers of the government of Mississippi each with different powers. One shall be the legislative, another the judicial, the third, the executive."

Q-20

"It is my duty as a citizen of Miss. to observe all the laws and regulations set forth by my state which I feel are for the betterment of the whole- and to exercise my rights as a citizen in all respects if I feel that they are not."

Burks, Bobby Eugene
May 18, 1962

"There shall be three separate departments of the powers of the government Mississippi each with different powers. One shall be the legislative, another the executive, the third the judicial."

"It is my duty as a citizen to observe and obey the laws of the state, to take part in elections And exercise my rights as a citizen to try to elect the best person for officers."

[fol: 2130]

(4) Two white applicants on different days.

Q-19

Hendricks, Charles
LaFayette Jr.
Sept 3, 1961

"The powers of the state of Mississippi are divided into three departments, the legislative, judicial and executive departments."

Q-20

"The duties of citizenship is that the citizen should uphold the constitution of the United States of American and the state of Mississippi, to abide by all laws, and to *perform* all civic duties that the citizen might be called upon do."

Venable, James
Edward III
Oct 2, 1961

"The powers of the state of Miss. are divided into three departments, the legislative, judicial and executive departments."

"The duties of citizenship is that the citizen should uphold the Constitution of the United States and the State of Mississippi to abide by all laws and to *perform* all civic duties that the citizen might be called upon to do."

(5) Two white applicants on different days.

Q-19

Norton, Thomas Melton
April 30, 1962

"That the powers of the government of the state of Mississippi are divided into three major departments. The legislative, the executive, and the judicial. The legislature will make the laws, the executive carries them out, and the judicial judges

Q-20

"Each citizen under the constitutional form of government has a duty and obligation to take an active part in his government. This is usually carried out by casting his vote in each election. This helps to assure that the best qualified person will

Q-19

[fol. 2131]

them. The legislature is made up of the senate and house of representative, the executive is made up gov. and his department and the judicial is made up of courts."

Q-20

always be elected to the office for which he is seeking election."

Slaughter, Ernestine
May 16, 1962

"The powers of the government of the state of Mississippi are divided into three major sections, The legislative, the executive and the judicial. The legislature will make up the laws. The executive will carry them out and the judicial judges them.

The legislature is made up of the senate and the house of representations, the executive is made of the gov. and his department. And the judicial is made up of the courts."

"Each citizen under the constitutional form of government has a duty and obligations to take an active part in his government. This is carried out by casting his vote in each election. This will help assure him for the office for which he is seeking election."

(6) Three white applicants on different days.

Q-19

McCartney, Jean
Moorman
Oct. 19, 1961

"The legislature, judicial and executive branches of the government operate independently one of the other."

Q-20

"To select the person most qualified for a public office of responsibility."

[fol. 2132]

Application Forms

Q-19

Rutledge, Mrs.
Blanche T.
Oct. 28, 1961

"The legislative, judicial and executive branches of the government operate independently, one of the others."

Farris, (Mrs.) L. E.
April 9, 1962

"Each power of the government has a right to act independently one of the other."

Q-20

"To elect the person who you think is best qualified to hold a public office of responsibility."

"To select a person best suited or qualified to serve as the elected officials of the county and state."

(7) Two white applicants on different days.

Q-19

Denley, Daphne
June 30, 1962

"The government of Mississippi is made up of three different departments with specific powers and duties to each. The legislative department made up of the House of Representatives and senate to enact the laws of the State. The judicial branch made up of the courts to sit in judgment on these laws. The executive branch which is headed by the Governor to see that these laws are made, judged and executed properly."

Q-20

"I believe that as a citizen I should support my government with my taxes, my service and my loyalty, as well as my vote for the men who I think will best serve my country..."

[fol. 2133]

McCullough, Albert
Murray
7/17/62

Q-19

"State of Mississippi is divided into three distinct Departments: Legislative consists of the house of Representatives and Senate (This body makes the laws) The judicial branch make use of the courts to sit in judgment on these laws) The executive Branch is headed by the governor to see that these laws are made, judged, and executed properly."

Q-20

"As a citizen I should support the Constitution, pay my taxes offer my services and my loyalty as such, I should cast my vote for the person whom I think will serve for the respective offices best."

(8) Two white applicants on different days.

Q-19

Smith, Billy Carlton
June 6, 1962

"The Legislative makes the Laws for the state. The judicial is the courts. The Executive enforce the law and consist of the Governor and his staff.

Q-20

"To exercise my — as a citizen under constitution form of governments. To take part in elections and cast my Ballot for the person who I think would be the best for that office."

Braasher, James H. Jr.
May 31, 1962

"These three powers are legislative which is the house of Representatives & Senate which make the laws. The Judicial consists of the courts which help enforce the laws and the executive which protect to the governor and his staff."

"The duties of all citizens are to uphold the law, which we set forth ourselves and to help protect our rights as free citizens. One protection is to vote and put in to office the man that we think will do the best job of us all."

[fol. 2134]

(9) Two applicants on different days.

Sayle, David
Bardwell
June 1, 1960

"The powers of the government of the State of Mississippi shall be divided into three separate branches with each of them having a separate magistracy. This is to serve as a check and balance system in the state government. No one department can exercise the powers of the other two departments.

"Yes I fully understand the duties and obligations of citizenship under a constitutional form of government."

Gong, Sam
June 8, 1960

"The three powers are a check and balance system in the state government. No one department can exercise the powers of the others. One to make and amend the laws, the other, to judge the causes and the executive to execute the laws."

"Yes, I fully understand the duties and obligations of citizenship under a constitutional form of government."

c. Grading

(1) The following accepted white applicants wrote wrong or non-responsive interpretations to section 1 of the constitution.

Ward, Bobby Lee
July 27, 1960

Q.19—"That the state of Mississippi is — under the state — constitution and an ordinary of constitutional convention cannot violate it."

Brooks, Zeb A., Jr.
August 10, 1960

Q.19—"The separation of the legislative, judicial and executive powers of *goverment* is and ordanie can not violate it."

[fol. 2135]

Rutledge, Richard
Taylor
April 7, 1962

Q.19—"Those which make the law are legislative to one which make the law. Those which obey the law are Judicial to it and those which are executive to it are to judge upon it."

Buchanan, Darryl
Wayne
April 28, 1962

Q.19—"The first section employe the separation of powers. The legislative branch to make the law. This house is compise of the house of representatives and senate. The judicial branch is compose of the governor and his administrative officials."

Rideout, Bobby Gene
March 21, 1962

Q.19—"The State of Mississippi is divided into three distinct departments and each are *confided* to a separate magistrary which are *legislative* To one."

Moore, Albert Rufus
April 2, 1962

Q.19—"each one of them have separate government or fail to perform."

Johnson, George R.
April 6, 1962

Q.19—"That each government will enterfere in the affairs of the others makes no (?) difference the *cirsmstances* a government with in its self."

(2) The following accepted white applicants wrote non-responsive statements of the duties and obligations of citizenship.

Evans, Hope
May 12, 1961

Q.20—"The Duties of a good citizen under a constitutional state in which you live to the best of your ability."

Gong, Sam
June 8, 1960

Q.20—"Yes, I help (?) understand the duties and obligations of citizenship under a constitutional form of Government."

Sayle, David
Bardwell
June 1, 1960

Q.20—"Yes I fully understand the duties and obligations of citizenship under a constitutional form of government."

[fol. 2136]

Leflore County

Part III

The Government believes that the following Negro citizens of Leflore County who filled out application forms were denied registration because of Section 244 of the Mississippi Constitution:

Form #	Name	Address
1318	Burton, Leonard	Greenwood
1596	McMillan, Elma F.	223 Taft, Greenwood
1699	Veal, Freddie Lea	308 1/2 Broad St.
1701	Brown, Sara Alice	712 Avenue P.
1757	Harvey, Wallace	Greenwood
1825	Robinson, Erma J.	421 West Stone St.

Form #	Name	Address
2089	Hampton, Nick	Rt. 1, Box 427, Itta Bena
2096	Childress, Dorothy Ann	413 Aye. A
2209	McGee, William H.	202 Palace Street
2211	T. J. Loggins	Itta Bena, Miss.
2229	Markham, Mattie Mae	215 Oak St.
2251	Brown, Rosetta	612 State St.
2308	Morris, Mrs. Paulie Lee	114½ E. Gibb St.
2336	Henderson, Alma Green	619 Howard Street
2343	Lomax, Ary	214 E. Scott St.
2365	Johnson, Miss Minnie Lee	1005 Avenue F
2401	Pilcher, Amey Mae	109½ W. Johnson St.
2409	Moore, Willie Lee	1107 Holloway St.
2415	McCaskill, Dorothy	609 State St.
2417	Ward, Carrie L.	211 W. Percy
2442	Jordan, Andrew	423 Avenue G
2476	Reed, Virginia Mae	Itta Bena
2480	Walker, Lacie Ann	306 Ave. A

[fol. 2137]

2481	Williams, Mrs. Jean	721 Ave. L
2497	White, Mrs. Clote Davis	615 State St.
2505	Jordan Clifton Curtis	810 Ave. E
2561	Lipscomb, Alice S.	1107 Eastlawn Dr.
2568	Nichols, Ioda	704 Ave. L. (LPA)
2571	Carpenter, Jewell	709 Ave. N
2572	Wright, Dorothy	721 E. McLaurin
2584	Steward, Minnie	601 Ave. L
2595	Johnson, Willie Lee	415 Ave. A
2596	Jackson, Dora Lee	216 Noel St.
2648	Wiggins, Frankie Lee	704 Ave. K
2650	Lucas, Hattie Mae	—
2651	Lucas, Ardellia	Rt. 2 Box 23½ (LPA)
2656	Sanders, Mrs. Gracie Lee	713 Walthall St.
2675	Baker, Mrs. Thelma	720 Cotton St.
2676	Cheeks, Durtha Ree	610 Ave. K
2683	Keyes, Leonia	311 McCain
2730	Cayson, Arlena	703 E. McLauren
2832	Hampton, Nick Jr.	Rt. 1, Box 427 IB
2844	Sanders, Mary	208 E. Henry St.
2877	Johnson, Mary Elma	606 Broad St.
2887	Mallett, Mrs. Sammie Mae	26 Young Street
2907	Weaver, Ollie B.	701 Ave. N
2908	McGee, William Henry	202 Palace St.
2909	Greene, Dewey	619 Howard St.
2910	Davis, Mrs. Annie Lloyd	—
2911	Lane, Mary Lee	214 Ave. H
2932	Buckner, Sallie Mae	431 Ash St.
	McMorris	

[fol. 2138]

2943	Brown, Mrs. Lorene Ivey	507 Ave. I
2950	Campbell, Cora	Itta Bena
2964	Harris, Ruby	414 Stevenson
2969	Morris, Mrs. Pearl Lee	825 Dixie Lane (LPA)
3004	Chandler, Hattie B.	926 Howard St.
3014	Johnson, Emma Elender	316 W. Gibbs St.
3023	Jordan, Arella	423 Ave. G
3031	Johnson, Minnie Lee	1005 Ave. P
3033	Hardy, Mrs. Alma Nichols	606 Howard St.
3052	Hampton, Ruthie B.	Itta Bena
3075	Greene, Freddie	619 Howard St.
3130	Brooks, Susie	115 E. Gibbs St.

Form #	Name	Address
3177	Roberts, Rev. Eddie Winslow	110 Mitchell St. I.B.
3205	Robinson, Mrs. Louise	204 Noel St.
3220	Allen, Estella Clark	McKinley St. I.B.
3242	Payton, Mary Virginia	Itta Bena
3247	Jordan, Andrew L.	423 Ave. G
3280	Hampton, Nick	Box 427 Itta Bena
3301	Kingston, Henrietta	Itta Bena
3303	Mitchell, Felix Louis	705 Broad St.
3306	Carpenter, Jewell J.	709 Ave. N
3307	Jackson, Dora Lee	Greenwood
3315	Strong, Mrs. Mary	Itta Bena

[fol. 2139]

Leflore County

Part III

The Government believes that the following Negro citizens of Leflore County who filled out application forms were denied registration because of the duties and obligations question:

Form #	Name	Address
2468	Jordan, Mrs. Christian Bell	514 Avenue H
3122	Walker, Lacie Ann	306 Avenue A

[fol. 2140]

Benton County #14

Part II

Application Forms

(Supplementary Analysis)

3. Analysis of Forms

a. Selection of Sections of the Constitution

Between June 25, 1962 and May 7, 1963, the dates of the first and last forms photographed on December 20, 1962 and May 8, 1963, 174 applicants received 54 sections of the Mississippi Constitution to copy and interpret. The forms of 7, 4 white persons, 2 Negroes and 1 race unknown, bore no constitutional sections.

Section	White	Negro	Section	White	Negro
30	0	3	132	1	0
33	0	1	136	0	1
35	3	0	144	0	2
38	0	1	145	0	1
39	0	1	146	0	1
50	1	0	148	1	0
63	0	1	150	3	0
67	6	0	152	4	0
73	1	0	153	5	0

Section	White	Negro	Section	White	Negro
92	2	0	154	6	0
93	1	0	156	0	1
101	7	1	157	5	4
108	1	0	158	1	1
114	1	0	162	4	1
117	5	0	166	4	0
118	2	0	167	0	2
119	4	1	172	2	0
122	0	1	173	1	0
123	1	0	174	4	1
126	7	2	175	2	0
127	1	2	176	7	1
128	5	1	196	0	1
129	0	0			
[fol. 2141]					
198	0	1	226	2	0
209	6	0	246	0	2
214	2	0	250	5	0
215	1	1	265	16	5
217	0	1			

Two persons of unknown race received sections 129 and 265.

b. Assistance to Accepted White Applicants

Assistance to accepted white applicants takes the form of identical or virtually identical answers to question 19 (interpretation) by persons who received the same constitutional section and similar answers to question 20 (duties and obligations).

(1) Question 19—Interpretation

A

Name: J. C. Breedlove

Date: 2/26/63

Section: 152

"The circuit and chancery courts of the state shall be divided into convenient districts by the legislature."

Name: Galon D. Hunt

Date: 3/30/63

Section: 152

"The circuit and chancery courts of the state shall be divided into convenient districts by the legislature."

B

Name: A. R. Goolsby

Date: 2/26/63

Section: 174

"A district attorney for each circuit district whose compensation shall be a fixed salary whose term of office shall be four years shall be selected in the manner provided by law and whose duties will be prescribed by law."

[fol. 2142]

Name: F. T. Murley

Date: 3/30/63

Section: 174

"A district attorney for each circuit court district whose compensation shall be a fixed salary, whose duties shall be prescribed by law, whose term of office shall be four years, shall be selected in the manner provided by law."

Name: T. M. Bryant

Date: 5/3/63

Section: 174

"A district attorney for each circuit court district whose compensation shall be a fixed salary, whose term of office shall be four years, whose duties shall be prescribed by law, shall be selected in the manner provided by law."

C

Name: Barbara Dunn

Date: 1/28/63

Section: 250

"No person can eligible to hold office except qualified electors unless the constitution provides otherwise."

Name: Larry Napper

Date: 5/6/63

Section: 250

"No one is eligible to hold office except qualified electors, unless the constitution provides otherwise."

D

Name: G. L. Thompson

Date: 1/10/63

Section: 265

"Any person that does not believe there is a God can not hold any office in the state of Mississippi."

Name: D. J. Grishman

Date: 2/28/63

Section: 265

"Any person who does not believe there is a god shall not hold any office in the state of Mississippi."

Name: R. C. Franks

Date: 3/23/63

Section: 265

"Any person that does not believe in god can not hold an office in the state of Miss."

[fol. 2143]

Name: Paul Gray

Date: 5/2/63

Section: 265

"Any person who does not believe there is a god can not hold any office in this star."

E

Name: B. P. Derrick

Date: 1/14/63

Section: 265

"Any person who does not believe there is a God or a hereafter cannot hold any office in this state."

Name: G. D. P. Beck

Date: 4/20/63

Section: 265

"Any person who believe there is no God or her after shall not hold any office in the state."

(2) Question 20—Duties and Obligations

The following white registrants wrote the duties and obligations of citizenship to be to "abide by state and federal laws," or a slight variation thereof.

Name	Date
K. G. Williams	10/6/62
E. G. Doyle	11/27/62
R. L. Steele, Jr.	1/2/63
J. D. Graves	1/24/63
B. E. A. Skelton	1/28/63
J. R. Boling	2/1/63
Joel Allen	2/2/63
Katie Byrd	2/2/63
R. L. Poff	2/4/63
A. S. Poff	2/26/63
A. R. Goolsby	2/26/63
Mrs. M. H. Scarth	2/27/63
C. Clarksam	3/27/63
Mrs. H. Feathers	4/13/63
Paul Gray	5/2/63
B. J. F. Eaton	5/6/63
L. Napper	5/6/63

c. Grading

Application forms filed by 3 white registrants between September 15, 1962 and March 4, 1963 reflect the lenient qualification standards applied to white applicants.

[fol. 2144]

A

Name: J. S. Mason

Date: 9/15/62

Section: 126

"There shall be a seal of the state kept by the governor, and used by him officially, and be called the great seal of the state of Mississippi."

Question 19:

"The Great Seal Mississippi should be keep in the Governor office at all time on all important pappers, and void only by the Governor."

B

Name: D. F. Thompson

Date: 1/12/63

Question 20:

"To be a good citizen is often the low and the constitutioned."

C

Name: K. E. Cox

Date: 3/4/63

Question 20:

"A citizen of the United States should upperhand & with hold the constitution of the United States to the best of their ability I should never turn against the United States & to give assistance in every way toward the constitution of the United States of America."

[fol. 2145]

Part III

The following Negroes, who applied to register on the dates indicated, have been denied the right to vote by the use of the constitutional interpretation or duties and obligations test, or by the application of the perfect form requirement.

Name	Date
D. B. White	8/1/62
J. Royston	8/7/62
T. T. Baird	8/30/62
W. R. Tipler	9/10/62
J. McAfee	10/18/62
J. Royston	12/21/62
S. S. Avaut	12/31/62
A. S. Jeffers	12/31/62

[fol. 2146]

Supplemental
Application Forms
Grenada #16

* Part II

1 & 2. Number of Forms and Period Covered

The application forms have been re-counted. The information previously supplied should be changed to read as follows:

White

Accepted	1355
Rejected	0
Pending	47

Negroes

Accepted	7
Rejected	21

Unknown

Rejected	3
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3. Analysis of Forms

a. Selection of constitutional sections

Section	White	Negro	Unk.	No. of Words
9	1321	16	1	11
16	22	1	0	15
21	13	1	1	35
59	3	2	0	136
61	0	1	1	26
85	1	0	0	45
124	1	2	0	161
		(correction)		
[fol. 2147]				
147	3	0	0	98
159	6	3	0	57
203	2	0	0	58
239	26	2	0	45

There are four applications from which it is impossible to determine from the film the section asked the applicant. These four applications were filled out by white applicants. All seven accepted Negro applicants received Section 9 to interpret.

The first time a section other than section 9 was given to any applicant was January 30, 1961. Until that date 982 applicants including the seven Negroes who were registered received Section 9 to interpret. The following is a chart of selection of sections by race since January 30, 1961, the date the registrar began to use other sections of the Constitution.

Section	White	Negro	Unknown
9	364	3	1
16	22	0	0
21	13	1	1
59	3	0	0
61	0	1	1
85	1	0	0
124	1	0	0
147	3	0	0
159	6	0	0
203	2	0	0
239	26	2	0

(correction of first half on page)

[fol. 2148]

Marshall County #18

Part II

Application Forms

1. Number of Application Forms

There are 621 application forms. The date of the first form is September 16, 1961; the last form is dated May 8, 1963. The dates of photographing by the Department of Justice were March 19, 1962, January 15, 1963, and May 8, 1963. The overall breakdown is:

	Accepted	Rejected	Pending
White	281	28	50
Negro	67	131	50
Race Unknown	9	4	1

The breakdown by photographing periods is:

a. 9/16/61 to 3/19/62

	Accepted	Rejected
White	54	14
Negro	27	24

b. 3/20/62 to 1/15/63

	Accepted	Rejected
White	96	7
Negro	30	77
Race Unknown	4	3

c. 1/16/63 to 5/8/63

	Accepted	Rejected	Pending
White	131	7	50
Negro	10	30	50
Race Unknown	5	1	1

[fol. 2149] 2. Periods which Forms Cover

a. September 16, 1961-November 30, 1962

This period covers from the date of the first form until an agreement was made between the registrar and the Department of Justice to restrict the number of sections used in the interpretation date.

b. December 1, 1962-May 8, 1963

Since December 1, 1962 all applicants have been required to copy and interpret one of five sections of the Mississippi Constitution—8, 30, 33, 240, or 250.

3. Analysis of Forms

a. Selection of Sections of the Constitution

(1) September 16, 1961 to November 30, 1962—There were 282 applicants during this period. The following constitutional section breakdown covers only 272 of them because the race of 7 is unknown and the sections given to 3 are unknown.

Section 240: White 68 Negro 9

“All elections by the people shall be by ballot.”

Section 169: White 1 Negro 27

"The style of all process shall be 'The State of Mississippi,' and all prosecutions shall be carried on in the name and by authority of the 'State of Mississippi' and all indictments shall conclude 'against the peace and dignity of the state'."

[fol. 2150]

Section 130: White 15 Negro 0

"The lieutenant-governor shall receive for his services the same compensation as the speaker of the house of representatives."

Section 21: White 3 Negro 26

"The privilege of the writ of habeas corpus shall not be suspended, unless when in the case of rebellion or invasion, the public safety may require it, nor ever without the authority of the legislature."

Section 33: White 25 Negro 9

"The legislative power of this state shall be vested in a legislature which shall consist of a senate and a house of representatives."

Section 198: White 4 Negro 13

"The legislature shall enact laws to prevent all trusts, combinations, contracts and agreements inimical to the public welfare."

Section 250: White 16 Negro 2

"All qualified electors and no others, shall be eligible to office, except as otherwise provided in this Constitution."

Section 5: White 0 Negro 4

"All political power is vested in, and derived from, the people; all government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole."

Section 167: White 7 Negro 3

"All civil officers shall be conservators of the peace, and shall be by law vested with ample power as such."

[fol. 2151]

Section 54: White 0 Negro 2

"A majority of each house shall constitute a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each shall provide."

Section 108: White 3 Negro 1

"Whenever the legislature shall take away the duties pertaining to any office, then the salary of the officer shall cease."

Section 32: White 0 Negro 12

"The enumeration of rights in this constitution shall not be construed to deny and impair others retained by, and inherent in, the people."

Section 172: White 0 Negro 8

"The legislature shall, from time to time, establish such other inferior courts as may be necessary, and abolish the same whenever deemed expedient."

Section 25: White 0 Negro 2

"No person shall be debarred from prosecuting or defending any civil cause for or against him or herself, before any tribunal in the state, by him or herself, or counsel, or both."

Sections 118 and 157:

Section 118 White 1 Negro 0

"The governor shall receive for his services such compensation as may be fixed by law, which shall neither be increased nor diminished during his term of office."

[fol. 2152]

Section 157

"All causes that may be brought in the circuit court whereof the chancery court has exclusive jurisdiction shall be transferred to the chancery court."

Sections 4, 10, 14, 20, 22, and 63:

Section 4

Negro 1

White 0

"The legislature shall have power to consent to the acquisition of additional territory by the state, and to make the same part thereof; and the legislature may settle disputed boundaries between this state and its coterminus states whenever such disputes arise."

Section 10

"Treason against the state shall consist only in levying war against the same or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

Section 14

"No person shall be deprived of life, liberty, or property except by due process of law."

Section 20

"No person shall be elected or appointed to office in this state for life or during good behavior, but the term of all officers shall be for some specified period."

Section 22

"No person's life or liberty shall be twice placed in jeopardy for the same offense; but there must be an actual acquittal or conviction on the merits to bar another prosecution."

[fol. 2153]

Section 63

"No appropriation bill shall be passed by the legislature which does not fix definitely the maximum sum thereby authorized to be drawn from the treasury."

Section 39: White 2 Negro 2

“The senate shall choose a president pro tempore to act in the absence or disability of its presiding officer.”

(2) December 1, 1962 to May 8, 1963

There were 339 applicants during this period. The following constitutional section breakdown covers only 330 of the them because the race of seven is unknown and the sections given to 2 are unknown. As noted above, applicants during this period have been required to copy and interpret one of five sections: 8, 30, 33, 240, and 250. The last three are set out above.

Section 8: White 18 Negro 30

“All persons, resident in this state, citizens of the state of Mississippi.”

Section 30: White 87 Negro 21

“There shall be no imprisonment for debt.”

Section 33: White 28 Negro 20

Section 240: White 65 Negro 23

Section 250: White 15 Negro 23

[fol. 2154] b. Assistance to Accept White Applicants

Assistance to white registrants takes the form of identical or virtually identical answers to questions 19 (constitutional interpretation) and 20 (duties and obligations). The identical or similar answers have appeared throughout the entire period covered by the forms.

The forms filled out by white registrants on the dates indicated in (3), below, bear corrections to answers which are invariably better than the answer as originally set down.

(1) Question 19—Constitutional Interpretation

Of the 133 white registrants who were required to copy and interpret section 240 of the Mississippi Constitution (“All elections by the people shall be by ballot.”), 67 of

them, on the dates indicated, interpreted it as: "to vote for the person of your choice by secret ballot," or a slight variation thereof.

Name	Date of Application
L. E. Barnett	10/21/61
J. L. Gardy	10/28/61
E. S. McAlexander	5/3/62
M. Kirk	2/2/62
R. C. Taylor	2/3/62
P. M. Cook	2/5/62
B. L. Shelby	2/17/62
W. H. Ray	2/17/62
L. M. Tomlinson	1/30/62
J. L. Yeager	2/23/62
W. K. DeVore	2/27/62
D. B. Yeager	2/23/62
T. D. Skelton	2/24/62
S. F. Harrison	3/5/62
G. M. McCollum	2/6/62
M. F. Shumaker	3/23/62
Mrs. J. H. Landreth	3/21/62
J. Zanol	5/17/62
R. McCormick	5/16/62
D. T. Gossett	5/10/62
Mrs. D. T. Gossett	5/10/62
B. B. Arnold	5/19/62
G. L. Arnold	5/19/62
E. W. Wilson	5/29/62
C. P. Locke	5/26/62
T. W. Jamison	6/11/62

[fol. 2155]

B. W. Palmer	7/9/62
O. R. Clayton	8/27/62
A. F. Mills	8/18/62
G. R. Ash	8/18/62
Mrs. L. M. Joyner	9/8/62
Harold Butler	10/22/62
Mrs. V. M. Beasley	?
J. C. McClure	11/5/62
T. G. Tomlinson	1/31/63

Name	Date of Application
L. F. Sharp	2/1/63
Mrs. W. D. Hollowell	2/5/63
B. E. Fesmine	1/5/63
V. J. Waldrip	1/29/63
J. M. D. Palmer	1/22/63
M. J. Lindsey	3/9/63
E. W. Miller	3/8/63
D. H. Carpenter	3/15/63
B. J. Hunsucker	3/16/63
J. W. Hunsucker	3/4/63
S. B. Greer	3/22/63
C. M. Pannell	1/28/63
F. V. Morgan	1/7/63
B. E. Clayton	1/21/63
B. R. White	1/31/63
C. P. Kelly	1/12/63
H. L. Johnson	1/12/63
D. L. Gould	1/11/63
J. E. Taylor	1/19/63
D. R. Bryant	1/22/63
F. T. Johnson	2/13/63
M. G. Fitch	2/8/63
Mrs. C. R. Fish	12/1/62
H. G. Gandy, Jr.	1/29/62
J. V. Luidsey	1/24/63
O. L. Calston	1/21/63
M. Humphreys	3/2/63
E. O. Anderson	3/9/63
C. J. Smith	3/16/63
P. L. Garner	3/2/63
W. E. Harris	3/27/63
E. L. Churchill	3/29/63

(2) Question 20—Duties and Obligations

As indicated by names and dates, below, numerous white registrants gave identical or virtually identical answers to question 20, which requires applicants to state some of the duties and obligations of citizenship under a constitutional form of government. The standard answer is: "obey the laws and vote," or a slight variation thereof.

Name	Date of Application
H. E. Thompson	1/12/62
D. E. Cash	1/22/62
J. C. Hatcher	1/22/62
L. M. Tomlinson	1/30/62
B. M. Mangrum	1/30/62
H. M. Barber	2/2/62
R. C. Taylor	2/3/62
G. M. McCollum	2/6/62
B. L. Shelby	2/17/62
R. H. Handle	2/21/62
H. G. Gardner	2/26/62
W. K. DeVore	2/27/62
J. L. Yeager	2/23/62
D. B. Yeager	2/23/62

[fol. 2156]

B. S. Gullick	10/6/62
T. H. Sanderson	10/13/62
E. J. Hayes	10/15/62
Mrs. V. M. Beasley	(Not Known)
T. D. Skelton	2/24/62
G. F. Brown	3/9/62
J. Zanola	5/17/62
D. T. Gossett	5/10/62
Mrs. D. T. Gossett	5/10/62
B. B. Arnold	5/19/62
C. P. Locke	5/26/62
D. W. Abel	6/2/62
V. H. Tice	7/27/62
A. F. Mills	8/18/62

Name	Date of Application
G. R. Ash	8/18/62
H. M. Howell	9/14/62
Mrs. L. M. Joyner	9/8/62
Harold Butler	10/22/62
Mrs. J. Conway	10/6/62
J. C. McClure	11/5/62
A. C. Carpenter	1/28/63
R. G. Carpenter	1/28/63

(3) Corrections

As indicated by names and dates, below, numerous white registrants changed answers on their forms, invariably for the better.

Name	Date	Q.
H. L. Reed	1/27/62	19
J. E. Tapp	1/8/62	9
D. S. Sullivan	1/23/62	Oath
C. W. Lyles	3/23/62	20
B. G. Shelby	3/24/62	18
J. Zanola	5/17/62	12
B. B. Arnold	5/19/62	14
N. G. Lane	8/4/62	19
G. R. Ash	8/18/62	19
L. A. Rather	9/10/62	19
J. C. McClure	11/5/62	12
W. A. Alexander	3/9/63	19
B. E. Lemons	1/21/63	8
P. A. Hunsucker	1/26/63	19
D. L. Young	1/26/63	19
J. S. Hicks	1/31/63	19
T. G. Tomlinson	1/31/63	19
O. E. Brisco	2/23/63	19
J. Fitch	2/1/63	19
Mrs. G. W. Coleman	3/4/63	19
J. A. Smith	3/6/63	12
E. F. Norsworthy	3/30/63	19
W. H. Barry	3/26/63	19
J. E. Woods	8/18/62	20
C. V. Clayton	8/27/62	20

c. Grading

The application forms of accepted white applicants executed on the dates indicated below, contrasted with those of rejected Negro applicants, show favored treatment to white persons in grading of the application form.

[fol. 2157]

White Registrants

Name	Date
J. R. Clayton	3/3/62
F. C. Johnson	2/1/62
Sister M. Clarona	1/17/62
H. G. Gardner	2/26/62
B. W. Mangrum	1/30/62
W. K. Devore	2/27/62
R. B. Kloha	10/21/61
J. E. Tapp	1/8/62
B. A. McAuley	4/24/62
L. D. Bumpas	3/24/62
G. C. Owens	6/1/62
M. F. McClure	7/31/62
N. C. Sorrell	9/12/62
W. M. Thomas	9/18/62
R. C. Scott	10/15/62
B. S. Gullick	10/6/62
D. R. Robinson	10/5/62
Mrs. B. H. Dunlap	11/3/62
E. O. Anderson	3/9/63
E. H. Edlin	3/2/63
G. A. Goode	3/15/63
Clevon Sims, Jr.	3/16/63
K. L. Covington	3/27/63
W. H. Barry	3/26/63
Mrs. E. A. Contini	1/29/63
B. R. White	1/31/63

Rejected Negroes

Name	Date
W. H. Bowens	3/12/63
J. W. Moffin, Jr.	12/20/62
L. B. Bruce	3/16/63
D. F. White	12/19/62
E. Naylor	1/5/63
E. Naylor	2/23/63
R. C. Anderson	3/12/63
J. White	1/22/63
B. Pryor	1/7/63
G. Jones	12/19/62
Almus Jones	1/8/63
G. B. Reddick, Jr.	1/8/63
Irene Harris	1/29/63
C. F. Brittenum	9/7/62
James Robinson	7/30/62

[fol. 2158]

Part III

The following Negroes have been denied the right to vote by the use of the constitutional interpretation test (question 19) or the requirement for stating the duties and obligations of citizenship under a constitutional form of government (question 20), or both. The dates are those on which the applications were executed.

Joycistine White	1/22/63
Bernice Pryor	1/7/63
J. W. Moffin, Jr.	12/20/62
Donald F. White	12/19/62
Gordon Jones	12/19/62
E. M. Naylor	1/5/63
Irene Harris	1/29/63
Katherine Kellar	4/27/62
L. B. Bruce	7/30/62
Clara Jones	7/28/62
Myrtle P. Sims	7/25/62
E. Davis	7/17/62
Frances D. Mims	7/25/62
James Robinson	7/30/62
E. M. White	8/23/62

H. S. Boyd, Sr.	8/8/62
Bernice Shields	8/11/62
C. A. Scott	8/3/62
C. M. A. Ford	9/17/62
R. L. Bullock	9/8/62
C. F. Brittenum	9/7/62
L. B. Bruce	3/16/63
W. H. Bowens	3/12/63
R. C. Anderson	3/12/63
J. W. Stewart	12/27/61
V. D. Street	1/2/62
B. J. Longrest	1/3/62
S. J. Brown	1/30/62
N. B. McCraven	10/19/61
H. W. Byers	10/27/61
M. L. Adams	11/7/61
O. L. Fant	11/13/61
G. B. Reddick, Jr.	11/21/61
A. W. Moore	1/3/62
H. S. Boyd	1/30/62
G. B. Reddick, Jr.	1/8/63
Almus Jones	1/8/63

1352

[fol. 2159]

Johnson, Frank L.
5/21/57

#19. It means you are free to vote for anybody you want to and you will never be harmed.

Omission on Form:

Question 12

Neal, Willie B.
10/30/58

#19. As a citizen of Mississippi we has a right to be heard rigits of creed orl color by peaceably asembling.

Error or omission on Forms:

Q. 14. unanswered;
Q. 15. answered "no"; Sec. 11 was recopied and interpreted in the space provided for the interpretation.

Dungan, Mrs. Lora E.
3/25/57

#19. To abide by the laws and rules of your government and so that there will be peace in the world.

Omission on Form:

Question 12

Koestler, Thelma R.
2/19/58

#19. The people of the United States will always be free to vote according to their own convictions and this government is for the people.

Omission on Form:

Q. 14. unanswered.

Regan, John B.
8/21/58

#19. The right of all americans people of United States of america to. Vote & obey the Law of the State.

(correction page)

[fol. 2160] The following five applicants all received Section 30.

Section 30

There shall be no imprisonment for debt.

Cecil Paul Brent	You can't be put in jail for
6-6-60	enoughness debt.
Mary Katherine Cline	I must pay all my debt.
1-19-62	
Girer Coper	I must Pay all Debts.
4-7-62	
Ethel Mae Griffin	I must pay all my debts.
5-21-62	
Earl Clarence Arnold	all debts must be paid.
10-8-62	

(corrected)

[fol. 2161] Franklin County #48

Part II

Application Forms

1 & 2. Number of forms and periods which they cover—
12/27/62—7/13/63.

White	Negro
Accepted 88	Accepted 5
Rejected 0	Rejected 4

Analysis of Forms

(a) Selection of Constitutional Sections

Only section 67 of the Mississippi Constitution was used for all applicants. Section 67 states—"No new bill shall be introduced into either house of the legislature during the last three days of the session."

(b) Assistance to White Applicants

(1) The following group of white registrants had identical or substantially identical answers to question #19. Each followed the basic pattern "During the last three days of the legislature no

new bill shall be introduced." (No Negro registrant had a pattern answer). This group also gave very similar interpretations of question #20 following the pattern "Uphold the constitution, obey the law, vote."

[fol. 2162]

Date of Application	Name of Registrants	Question 19 & 20
2-1-63	Taylor, Walter B.	Q. 19—During the last three days of session no new bills can not be introduced into either house. Q. 20—uphold the constitution and obey all the laws
2-2-63	Laird, Gletter G.	Q. 19—During the last three days of the session no new bill shall be introduced into either house of the legislature. Q. 20—A good citizen should live up to the constitution & vote.
2-2-63	Brown, John N.	Q. 19—During the last three days in which both houses of legislature are in session, a new bill can not be introduced. Q. 20—A citizen of the United state of america should uphold the laws set forth in the constitution and at all times be loyal to his country.
2-9-63	Arnold, Walter (Mrs.)	Q. 19—During the last three days of this session, no new bill cannot be introduced into either house. Q. 20—obey the laws of the United States and up hold the laws and vote for your house.
2-9-63	Goodson, Minä J.	Q. 19—During the last three days of the session no new bills can be introduced into either two houses of the legislature. Q. 20—A good citizen should up hold their constitution and obey all laws that have been set for them to follow through the years.

[fol. 2163]

Date of Application	Name of Registrants
2-19-63	Burria, Robert L.

Question 19 & 20

Q. 19—During the last three days of the session no new bill shall be introduced into either house of the legislature.

Q. 20—A good citizen should uphold the constitution and the law.

3-1-63	Steele, J. E. (Mrs.)
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Q. 19—During the last three days of the session new bills shall not be introduced into either house.

Q. 20—The upholding of the constitution. The obeying of law & order.

3-2-63	Romsey, Janet
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Q. 19—During the last three days of the session, no new bill shall be introduced into either house of the legislature.

Q. 20—I think that a good citizen should participate in and help in anyway that is for the good of all.

Also, a citizen should vote, cooperate, and never neglect anything which he knows is important to his state or government.

3-13-63	Bryd, Richard W.
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Q. 19—During the last three days of the session of the legislature no new bills can be introduced.

Q. 20—A good citizen should obey the laws of the constitution and vote for the person which should obey this constitution.

[fol. 2164]

3-22-63	Beasley, Patricia H.
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Q. 19—During the last three days of the session, no new bill shall be introduced into either house of the legislature.

Q. 20—Voting when becoming of age. Obeying all laws set forth by state. Upholding the rights of constitution.

Date of Application Name of Registrants

5-16-63 Pickering, R. A.

Question 19 & 20

Q. 19—During the last three days of the session no new bill shall be introduced into either house of the legislature

Q. 20—a good citizen should vote and uphold the constitution of the United States and the state of Miss.

5-16-63 Pickering, Betty Jo

Q. 19—During the last three days of the session no new bill shall be introduced into either house of the legislature.

Q. 20—a good citizen should be loyal and exercise his or her right to vote.

5-16-63 Walters, Johnnie, Sr. (Mrs.)

Q. 19—During the last three days of session no new bill shall be introduced into either house of the legislature

Q. 20—To perform ones duties and obligations during local & state made elections. To pay poll taxes to uphold the obligations in the welfare of my country by obeying its laws.

[fol: 2165]

5-20-63 Lazarus, Carolyn Ann

Q. 19—That during the last three days in the session no new bill may be introduced into either house of the legislature.

Q. 20—Know the candidates for public office and know their qualifications. Vote.

6-5-63 Hubbard, Evelyn C.

Q. 19—During the last three days of the session no new bill shall be introduced.

Q. 20—To vote & uphold the laws of the state.

6-27-63 Rushing, Marilyn V.

Q. 19—During the last three days of session in the house of the legislature no new bill can be introduced.

Q. 20—under a constitutional form of government the duties of a good citizen are to obey all the laws, uphold the constitution. Vote in all elections.

Date of Application	Name of Registrant
6-29-63	Emfinger, Willard R.

Question 91 & 20

Q. 19—During the last three days of the session, new bills shall not be introduced into either house of the legislature.

Q. 20—A citizen should obey the laws and uphold the constitution in of the United States and of Mississippi, should vote.

[fol. 2166] (2) The following two registrants who registered on the same day gave identical answers to question #19. Their answer to question #20 were also similar.

Date of Application	Name of Registrants
1-26-63	Magee, Doris F.

Question # 19 & 20

Q. 19—Either house of the legislature shall add no bills during the last (3) days of the sessions

Q. 20—(1) uphold the law
(2) support the constitution.

1-26-63	Ratcliff, Linda J.
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Q. 19—Eigher house of the legislature shall add no bill during the last three days of the sessions

Q. 20—The duties of citizen should obey the laws and supposed the constitutional. & support the government.

(3) The following white registrants gave similar interpretations of Questions #19 & 20.

Date of Application	Name of Registrants
3-20-63	Price, Carban

Question # 19 & 20

Q. 19—Bills cannot be introduced into the legislature of either house during the last three days of a session

Q. 20—A good citizens is obligated to up hold the constitution and to vote, also to obey state and local laws.

[fol. 2167]

Date of Application Name of Registrant
6-14-63 Ryan, Ouida E.

Question 19 & 20

Q. 19—New bill should not be introduced into either house of legislature during the last three days of the session.

Q. 20—He or she should obey the laws that set before us.

1-30-63 Farrell, Otis Lee

Q. 19—new bills can not be interoduced into eather house of the legislature during the last three day of the session

Q. 20—to support the government and not violate any of the laws

1-31-63 Ryan, Charles M.

Q. 19—New bill cannot be introduced into either house of the legislature during the last three days of the session

Q. 20—Uphold the law and the constition of the U.S.A.

2-7-63 Arnold, Walter W.

Q. 19—New bills can not be interduced to the legislature in the last three days of session

Q. 20—To uphold the law & live a good citizen of county, state, & United State of America

3-29-63 Smith, Nora (Mrs.)

Q. 19—New bills cannot be introduced into the legislature during the last 3 days of sessions

Q. 20—A good citizen should obey the laws and be truthful, aperson you can depend on.

[fol. 2168]

Pike County #54

Part I

-O-

The following Negro citizens of Pike County were not permitted to register to vote because their interpretations or duties of citizenship did not satisfy the registrar. All events described below occurred at the Circuit Clerk's office in Pike County.

- 57046 Summer 1961 He went to register with W. B. Dillon, Aaron Tobias and Georgia Tobias. He filled out a form and interpreted a section of the Constitution. Mr. Holmes looked at his interpretation and told him he wanted an essay and told him to study more and come back.
Rejected
Holmes-R
- 57045 Spring 1963 He went to register with Johnny Frank. He filled out a form and was given a section of the Constitution to interpret. Mr. Holmes told him he could not pass him on his interpretation and told him to study some more and come back.
Rejected
Holmes-R
- 57037 Spring 1962 She went to register with her husband. She filled out a form and interpreted a section of the Constitution. Mr. Holmes looked at her interpretation and said she had not condensed it enough. She was rejected.
Rejected
Holmes-R
- 57047 About 1957 She registered to vote in Harrison County. She went to register to vote in Pike County in 1957. She filled out a form and was given a section of the constitution to interpret. She could not interpret the section and was rejected.
Rejected
Holmes-R

[fol. 2169]

Pike County #54

Part II

(Supplement)

The application for registration photographed by the plaintiff in Pike County have been recounted. There are 630 applications from April 20, 1960-December 12, 1962. These are subdivided as follows:

Whites

Whites accepted who have signed the Registration Book—458.

Whites accepted who had not yet signed the Registration Book at the time of photographing—21.

Whites rejected—17.

Whites who filled out applications which were ungraded at the time of photographing—11.

Negroes

Negroes accepted—55.

Negroes accepted who had not yet signed the Registration Book at the time of photographing—2.

Negroes rejected—64.

Negroes who filled out applications which were ungraded at the time of photographing—2.

[fol. 2170] The following table is a more accurate count of the section distribution in Pike County by race from the date of the first form, April 20, 1960, to the date of the second photographing December 12, 1962:

Section Distribution

Section	# of Wards	White	Negroes
BL.	—	3	2
2	59	0	1
6	54	0	1
17	76	0	1
20	30	2	0
22	31	7	1
25	32	1	0
29	27	1	0
41	82	21	1
42	74	4	0
44	98	27	21
47	45	1	0
53	80	3	4
54	38	1	0

Section	# of Wards	White	Negroes
55	110	0	2
59	136	0	1
64	69	0	1
65	51	5	0
70	35	1	0
73	22	2	0
74	26	3	0
75	19	4	0
[fol. 2171]			
76	21	3	0
77	33	10	1
78	36	13	0
79	82	8	12
81	80	2	5
87	87	4	10
88	55	4	2
95	100	1	1
96	54	1	1
100	93	0	3
103	60	0	3
105	53	78	9
106	56	40	3
110	115	2	2
111	80	2	5
112	180	0	1
119	32	1	0
150	52	103	11
153	40	39	1
154	55	64	5
160	96	1	3
161	90	0	2
165	135	0	1
173	58	7	1
176	52	4	0
[fol. 2172]			
177	99	2	0
180	100	0	1
187	55	7	1
188	51	1	0
190	77	0	0
202	82	7	1
203	58	11	1
204	85	5	1
208	54	1	0
232	50	1	0

[fol. 2173] b. Assistance to White Applicants

Substantially similar ideas appear in answer to Q.20, the duties and obligations of citizenship, on many of the forms filed by white persons. These ideas are "Pay taxes legally assessed to you", and "Do all I can to make my community a better place to live and help others do the same." Either or both of these ideas appear in the answers to Q.20 on the following forms of accepted white applicants:

Name	Date
Horn, Mae W.	4-20-60
Trussell, Sarah E. D.	6-30-60
Yates, Edward H.	8-5-60
Alexander, Pearl L.	8-8-60
Farnham, Billy B.	10-21-60
Martin, Elizabeth	10-21-60
Kuyskendall, Betty Sue	10-31-60
Albritton, Bass Joe	11-2-60
Grey, Paul Edward	1-5-61
Sanders, Virginia	1-14-61
Dekie, D. B.	1-16-61
McGehee, Eva Mac J.	1-21-61
Thornton, Barbara Ann M.	1-25-61
Brister, Belle Martin	1-27-61
Prestridge, Vallie M.	1-27-61
Creel, Earline W.	1-30-61
Creel, Hugh M.	1-30-61

[fol. 2174]

DaQuilla, Doris L.	1-30-61
D'Aquiller, Pearl Audrey	1-30-61
Hayes, Lillie M.	1-30-61
Konkiel, Sister Marie	1-30-61
Thompson, Kathryn B.	1-30-61
Bullock, Evelyn M.	1-31-61
Lewis, Helen Marie W.	1-31-61
Tarver, Vance L.	1-31-61
Robert, Iva Earl H.	2-1-61
Wascom, Priscilla K.	2-1-61
Hollingsworth, Geneva I.	2-4-61
Fortenberry, Annette M.	2-10-61

Name	Date
Parsons, Betty F.	2-10-61
Kerr, James C.	3-1-61
Sassone, Ethel F.	4-10-61
Barnes, Janet B.	4-17-61
Reeves, Wallace T.	5-13-61
Felder, Dickie Sue	7-15-61
Robinson, James	8-30-61
Freeman, Charles Alton	9-2-61
Tucker, Virginia Joyce B.	9-11-61
Quin, Zula C.	9-29-61
Lyons, Jimmie Lou	11-4-61
Clark, Jimmy D.	11-24-61
Williams, Lee Monroe	10-7-61
Stayton, Milton	12-21-61
Brumfield, Ruby	1-18-62
Buckner, James B. Jr.	1-23-61

[fol. 2175].

Jackson, Willie Mae C.	1-23-62
Simmons, Juanita C.	1-23-62
Davis, Martha Mae	1-25-62
Thompson, Avis Laurence	1-26-62
Lowery, John W.	1-29-62
Williams, Ephie E.	1-29-62
Edward, Stanley	1-30-62
Roberts, Evelyn W.	1-30-62
Cooper, Marilyn M.	1-31-62
Forrest, Shirley W.	1-31-62
Wolfe, Annie M.	1-31-62
O'Neal, Lexie	2-2-62
Sartin, Myron D.	2-13-62
Simmons, Hilton H.	2-13-62
Bardwell, Phyllis J.	2-14-62
Raborn, Molly Irene	2-17-62
Griffith, Emma E.	3-7-62
Griffith, James E.	3-7-62
Bryant, Hazel L.	3-10-62
Miller, Gwendolyn K.	3-20-62
Williams, Virgie S.	3-23-62
Shaw, Golda H.	3-27-62
Fore, Wiley M.	4-5-62

Name	Date
Yawn, Charles L.	4-5-62
Yawn, Joy Annette	4-5-62
McKenzie, Willard A.	5-5-62
Pickett, Hilton R.	5-5-62

[fol. 2176]

Turnage, Willie F.	5-5-62
(Mrs. Jerry)	
Simmons, Mavis L.	6-6-62
Campbell, Eddice	6-7-62
Simmons, Genevieve D.	6-8-62
Chandler, Lorraine R.	6-12-62
Johnson, Marie Brumfield	8-23-62
Carr, Sarah Frances	9-10-62

[fol. 2177] The persons in each of the following groupings applied to register on the same day and had very similar answers to question 20.

Date	Name
2-6-61	McElwee, Charles V. Jr.
"	McElwee, Marjorie W.
2-1-62	Alexander, Florine
"	Alexander, Geneva M.
"	Alexander, Irene
1-23-62	Simmons, Juanita C.
"	Jackson, Willie Mae C.
1-30-61	Simmons, Thelma Irene C.
"	Simmons, Billy S.
12-30-60	Bigner, Eunice E. M.
"	Bigner, William N.
1-30-61	Creel, Earline W.
"	Creel, Hugh M.
1-30-62	Roberts, Evelyn W.
"	Roberts, Stanley

C. Grading

An examination of the application forms in Pike County indicates that a higher standard is used in grading the constitutional interpretations of Negro applicants than is used in grading those of white applicants.

[fol. 2178] The following seventeen rejected Negro applicants filled out application forms and gave a reasonable interpretation of a section of the Mississippi Constitution and a statement of duties and obligations of citizenship:

Sec.	Date	Name
150	10-18-60	Moses, Mable Ruth C.
79	10-1-60	Bates, Mary Ethel
112	8-9-61	Nobles, Dorothy
165	8-10-61	Nobles, Mary Nell
81	8-10-61	Nobles, Matthew
44	8-15-61	Butler, Patsy Ruth
79	8-18-61	Butler, Patsy R.
87	8-29-61	Waterman, Betty Jo
44	10-13-61	Harrell, Marion E.
111	10-19-61	Dillon, Edna Mae
105	12-28-61	Snead, Isaac C.
154	2-16-62	Martin, Willie
53	3-10-62	Bryant, Hazel L.
44	3-10-62	Bryant, Jerry L.
44	6-5-62	Campbell, Walter G.
41	6-5-62	Campbell, Mary A. Mrs.
53	7-12-62	Martin, Miss Emogene

The following four Negro rejected applicants wrote a statement setting forth their understanding of the duties and obligations of citizenship but their answers were marked wrong on their application forms.

Date	Name
8-10-61	Mary Nell Nobles
8-10-61	Matthew Nobles

[fol. 2179]

8-15-61	Patsy R. Butler
8-18-61	Patsy R. Butler

Mr. Holmes indicated to several Negro applicants that they were failed because their answers to questions 19 and 20 were not complete enough. An examination of the accepted application forms indicates that many white accepted applicants gave answers to question 19 which were no more

complete than those given by Negroes. An example of this type of discriminatory grading is found on examining the application of Edgar A. Bridgman dated 1-31-62. He was asked to interpret section 105. This section reads:

"The legislature shall provide for the enumeration of the whole number of inhabitants, and the qualified electors of the state, once in every ten years; and the first enumeration shall be made during the two months beginning on the first Monday of June, 1895 and the legislature shall provide for the same by law."

Mr. Bridgman's accepted answer was:

"This section means that the legislature shall provide for the counting of all of the people in the state every ten years. This first count will be made on the first Monday, June, 1895 and during the following two months. The legislature shall make necessary laws to carry out counting."

Mr. Bridgman's answer said nothing about counting the qualified electors and thus was an incomplete interpretation.

Comparing Mr. Bridgman's interpretation with the interpretation given by a rejected Negro Isaac C. Snead indicates different grading standards.

[fol. 2180]

Mr. Snead's answer was:

"The government shall take a count or census of the inhabitants and the qualified electors of the state each ten years. The legislature provides for this and the first count shall be made during the two months beginning on the first Monday of June, 1895."

Mr. Snead, though rejected, had the more complete answer.

[fol. 2181]

Part III

The following Negroes have been deprived of the right to vote because of the interpretation test, duties test, or the perfect form requirement:

Date	Name
10-4-62	Allen, Elouise Duncan
10-4-62	Allen, Willie Clay
8-10-61	Ashley, Bertha N.
7-21-61	Barnes, Huston
—	Brumfield, Thad
10-25-62	Cade, Garland Benjamin
8-29-61	Caston, Jesse Lee
8-30-61	Caston, Jesse Lee
12-5-61	Clabron, William
10-25-61	Dillon, Edna Mae
10-24-61	Dillon, Edna Mae
7-24-61	Grey, Sanifer
8-7-61	Heads, George W. Jr.
8-9-61	Heads, George W. Jr.
10-4-61	Johnson, Melvin J.
1-23-62	Matthews, Henrene
8-29-61	Morgan, Ruth Mae
10-18-60	Moses, Mable Ruth C.
7-12-62	Marshall, Mrs. Justina
8-13-62	Marshall, Justina
8-13-62	Martin, Emogene
2-1-62	Moore, Mrs. Edith M.
10-19-61	McMorris, Willie Mae W.

[fol. 2182]

8-10-61	Nobles, Johnnie F.
10-13-61	Nobles, Johnnie F.
8-31-61	Nobles, Johnnie Frank
8-10-61	Nobles, Marie
8-31-61	Nobles, Marion
8-10-61	Nobles, Mary Nell
8-10-61	Nobles, Matthew
1-29-62	O'Neal, Lexie
2-2-62	O'Neal, Lexie
1-30-62	Pinkney, Mrs. Edna M.

1-29-62
10-25-61
1-27-62
1-31-61
1-30-61
8-7-62
2-1-62
8-29-61
8-10-61
8-10-61
10-4-60
8-30-61
8-23-61
8-29-61
10-3-61
8-29-61

[fol. 2183]

12-28-61
8-9-61
7-12-62
2-16-62
10-13-61
10-19-61
6-5-62
6-5-62
10-1-60
3-10-62
3-10-62
8-18-61
8-15-61

Pittman, James
Robinson, James
Robinson, James
Simmons, Leila H.
Stalling, Kenneth
Stalling, Arthur
Strickland, Evelyn C.
Thompson, Margrett Odell T.
Tobias, Aron
Tobias, Georgia Ann
Tobias, Georgia
Waterman, Betty Jo
Williams, Claude
Williams, Dorothy Jean
Nobles, Mary Nell
Waterman, Betty Jo

Snead, Isaac C.
Nobles, Dorothy
Martin, Miss Emogene
Martin, Willie
Harrell, Marion E.
Dillon, Edna Mae
Campbell, Mary A. Mrs.
Campbell, Walter G.
Bates, Mary Ethel
Bryant, Hazel L.
Bryant, Jerry L.
Butler, Patsy Ruth
Butler, Patsy Ruth

[fol. 2184]

Rankin County #55

Part II

Application Forms

1. Number of Forms

A written demand for the inspection of voting records was made on Mr. J. R. Bradshaw, Circuit Clerk and Registrar of Rankin County on August 24, 1962. An application for an order requiring production of voting records was

filed by the Attorney General on September 10, 1962. An order dated December 10, 1962 granting the application was stayed on March 15, 1963. The stay was removed on August 21, 1963, and the records were inspected and photographed on August 30 and 31, 1963.

4,333 forms were photographed. Of these, there are 4,199 white and 50 Negro accepted forms.

There are 32 identified Negro rejected forms. Mr. Bradshaw has advised departmental attorneys that he does not recall any white applicants who have not been accepted.

Thirty three applicants were not found in the registration books and 19 applications were not acted upon at the time of photographing. These records are not included in the following analysis:

	White	Negro
Accepted	4,199	50
Rejected	0	32

[fol. 2185] 2. Period Form Cover

The earliest form photographed is dated January 1, 1957; the most recent form photographed is dated August 8, 1963.

3. Analysis of Forms

a. Selection of Sections of the Constitution.

From January, 1957 to August, 1963, 97% of the 4,199 white applicants received one of the following 3 sections;

Section 207

Separate schools shall be maintained for children of the white and colored races.

Section 101

The seat of government of the state shall be at the city of Jackson and shall not be removed or relocated without the assent of a majority of the electors of the state.

Section 11

The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

16 percent of the Negro applicants received one of the above sections. 84% of the Negro applicants received sections of greater length and complexity than the above including sections concerning treason against the state (§ 10); the removal of judges for reasonable cause on grounds insufficient for impeachment (§ 53); the appropriation of educational funds and the support of sectarian school (§ 208); the fictitious issue or increase of stock of [fol. 2186] transportation carriers (§ 196); and the exercise of the right of eminent domain (§ 190). No white applicant received any of these sections.

Distribution of Sections by race Sections given white applicants

Section	White	Negro
207	1,636	1
101	1,595	10
11	914	0
157	8	0
30	4	0
12	3	0
150	2	0
167	2	0
7	1	1
20	1	0
28	1	0
73	1	0
102	1	0
108	1	0
123	1	0
185	1	0
#18 blank	27	0

Sections given to Negro applicants

10	0	8
154	0	8
53	0	6
208	0	6
142	0	4
42	0	4
196	0	3
22	0	3
190	0	2
25	0	2
48	0	2
214	0	2
116	0	2

Section	White	Negro.
68	0	2
24	0	2
13	0	1
15	0	1
18	0	1
35	0	1
55	0	1
103	0	1
105	0	1
120	0	1
[fol. 2187]		
201	0	1
207	0	1
219	0	1
251	0	1
264	0	1
267	0	1

[fol. 2188]

Part II

Application Forms

b. Assistance—

(1) Questions 18, 19, and 20 completed by persons other than applicant—Application forms for 1,295 white applicants between January and August 1963 were analyzed, 24% of these indicate that questions 18, 19, and 20 were completed by a person or persons other than the applicant. The application forms for 1957-1962 have not as yet been similarly analyzed.

(2) Standard answers to questions 19 and 20—

Of the 1636 white applicants who received Section 207 to copy and interpret, 57% exhibited substantially identical or substantially similar answers to questions 19 and 20 as follows:

[fol. 2189]

Section 207: Separate schools shall be maintained for children of the white and colored races.

Substantially Identical Standard Answers

Question 19	Question 20	No.
1. White and colored shall not attend the same school	Pay taxes, vote in elections, obey laws	281
2. White and colored shall attend separate schools	Vote in elections, obey laws, pay taxes	142
3. White and colored children will never go to school together	Vote in elections, obey laws, pay taxes	69
4. State shall maintain segregated schools	Voting, paying taxes, obeying the laws	70
5. The schools of Mississippi are not to be integrated	Vote, obey the law, pay taxes	71

Substantially Similar Standard Answers

1. The state will always maintain separate schools	Voting, obeying the laws	186
2. State law says white and colored shall not attend the same school	Vote in election, obey laws, pay taxes	108
3. We will always have separate schools for white and colored children		71

[fol. 2190] Of the 1,595 white applicants who received Section 101 to copy and interpret, 52% exhibited substantially identical or substantially similar answers to Questions 19 and 20 as follows:

Section 101: The seat of government of the state shall be at the city of Jackson, and shall not be removed or relocated without the assent of a majority of the electors of the state.

Substantially Identical Standard Answers

Question 19	Question 20	No.
1. The capitol of Mississippi will always be in Jackson unless moved by the majority of voters	To vote, pay taxes, obey the laws	364
2. The capitol of Mississippi will always be in Jackson unless moved by the majority of the electors	"	259
3. Jackson will always remain the capitol of Mississippi unless a majority of the electors vote to remove it	"	115

Substantially similar to standard answers—

1. Jackson will always remain the capitol of Mississippi unless a majority of the electors vote to remove it	86
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[fol. 2191] Of the 914 white applicants who received Section 11 to copy and interpret, 54% exhibit substantially identical or substantially similar answers to questions 19 and 20, as follows:

Section 11: The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

Substantially Identical Standard Answers

Question 19	Question 20	No.
1. The people will always have the right to petition the government	To vote, pay taxes, obey the laws	226
2. The people have a right to petition the government on any subject	"	112
3. The people always have a right to assemble and petition the government	"	34
4. The people have the right to ask the government for most anything	"	29

Substantially Similar To Standard Answers

1. The people have a right to petition the government on any subject	To vote, pay taxes, obey the laws	100
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[fol. 2192]

Rankin County

Part III

The following Negro applicants were denied registration because of the requirements of Section 244 of the Mississippi Constitution. The precise grounds of denial are unknown.

Name	Address	Date of Application
Shots, Tommie L. Sr.	S. Pearson	3-17-62
Phillips, Sarah J. (Mrs.)	S. Pearson	3-17-62
Singleton, Georgia M.	S. Pearson	3-19-62
Taylor, Georgia (Mrs.)	S. Pearson	3-24-62
Cooper, Allie M.	S. Pearson	3-24-62
Hicks, Rubin	Star	1-30-59

[fol. 2193]

Covington County #67

Part II

1&2. Number of Application Forms. Period covered is from 6/5/62 to 7/12/63, however there are also 12 forms for 1958, 1959 and early 1962 which were not destroyed.

	White	Negro	Unknown
Accepted	398	10	3
Rejected	0	0	0

3. Analysis of Forms

A. Selection of Constitutional Sections

6/25/62-7/12/63

Sections	No. of Applicants	White	Negro	Unknown
123	325	314	9	2
30	68	67	—	1
207	2	2	—	—
119	1	1	—	—
35	1	1	—	—
Blank	2	2	—	—

12 Forms prior to 6/5/62

Sections	No. of Applicants	White	Negro
123	4	4	—
30	2	2	—
207	2	2	—
19	1	1	—
5	1	—	1
Blank	2	2	—

B. Assistance to Applicants

Section 123 of the Mississippi Constitution is:

“The governor shall see that the laws are faithfully executed.”

Two hundred and two of the 314 white persons given Section 123 gave substantially identical answers as their interpretations. These answers fall into four patterns which are shown below, some of which are not responsive to the section to be interpreted.

[fol. 2194] (1) The following white registrants wrote substantially similar answers as their interpretations. The Governor shall call the legislature into session when needed.

Their duties of citizenship are also substantially similar.

Name & Date	Q. 19 (Interp.)	Q. 20 (Duties)
Lee, Annie P. 3-31-62	The governor shall call the legislature in session when needed.	A good citizen should be law abiding.
Aultman, Gerald Lee 6-25-62	Governor shall call Legislature into session when needed.	A good Citizen should be law abiding and live by a Good rule.
Aultman, Dovie Elizabeth 6-25-62 (Mrs.)	The governor shall call the Legislature in Session when needed.	A good citizen should be law abiding and live by the Golden Rule.
Gardner, Daniel Thomas 8-4-62	The governor shall call the legislature in session when needed.	A good citizen should be law abiding and live by the Golden Rule.
Cowart, Mrs. Maude L. 8-13-62	The governor shall call the legislature in session when needed.	Abide by the law and try to enforce them.
Kelly, Jerry Clark 9-15-62	The Governor shall call legislature in session when needed.	Should be law abiding and live by the golden rule.

Name & Date	Q. 19 (Interp.)	Q. 20 (Duties)
Stubbs, Virginia 9-18-62	The governor shall call the legislature in session when needed.	A good citizen should be law abiding and keep the country in his foremost thoughts. He should do what is best for the whole country.
[fol. 2195]		
Stuckey, Carol H. 10-6-62	The governor shall call the legislature in session when needed.	A good citizen shall obey the laws
Odum, Betty Y. 11-24-62	The governor shall call the legislature in session when needed.	A good citizen should obey the law and obey the golden rule.
Pollard, James W. Jr. 12-4-62	The governor will call the legislature into session when needed.	A good citizen should be law abiding and vote in all elections.
Miller, Mrs. Jeff 12-5-62	The Governor shall call the legislature in session when needed.	A good citizen should obey all laws.
Jordan, Versie 12-15-62	The governor shall call the legislature in session when needed.	A good citizen should abide by all laws & vote.
Burham, Tommie L. 12-17-62	The Governor shall call the Legislature in session when needed.	A good citizen should abide by all laws and vote.
Cook, James 12-20-62	The governor shall call the legislature in session when needed.	The duties of a good citizen should obey all laws and vote.
Morgan, Rufus Jr. 12-27-62	The governor may call the legislature in session when needed.	A good citizen should abide by all laws and vote.
Clark, Jasper Dillard 12-29-62	The governor shall call the legislature in session when needed.	A good citizen should obey all laws.
Ponder, Peggy Catherine K. 12-31-62	The governor shall call the legislature in session when needed.	He shall uphold the law, vote.
Pickering, Paul Dan 1-1-63	The Governor shall call the legislature in session when needed.	A good citizen should abide by all laws.
Arpiniton, James D. 1-2-63	Shall call legislature in session when needed.	law abiding & voting.
Sullivan, Laura Grace 1-2-63	The governor shall call the legislature in session when needed.	Abide by all laws and vote.

[fol. 2196]

Name & Date

Allen, Bob Jake
1-2-63McDaniell, Minnie B.
1-5-63Napeir, Mrs. Ina
1-11-63Glisson, Kathleen
1-23-63Glisson, Bobby Clay
1-26-63Garner, Ruby Nell
1-28-63Sanford, Shirley J.
1-30-63Leonard, Mrs. W. E. Jr.
2-1-63

[fol. 2197]

Lovette, James Franklin
5-25-63Jackson, Bobby Eugene
5-25-63Rainey, Haskell
5-25-63

Q. 19 (Interp.)

The governor shall call the legislature in session when needed.

The government shall call the legislature into session when needed.

The governor shall call the legislature in session when needed.

The governor shall call the legislature in order when needed.

May call the legislature to meeting when need to.

The Governor calls the legislature in session when needed.

The governor shall call the legislature together when needed.

The governor may call the legislature when he needs them.

The governor may call the legislature when needed.

Governor may call the legislature

The governor can call the legislature

Q. 20 (Duties)

A good citizen should be law abiding and a voter

A good citizen be law abiding and live by the golden rule.

A good citizen should go to church obey all laws he can & vote.

A good citizen should obey all orders and to go to church.

A good citizen should obey all laws and vote.

By being brought up in a good church, and understanding right from wrong at all times and places and doin right by our fellow men and by voting in every election for the people who think can undertake the responsibility of the U.S.A. and Miss.

Shall go to church. Pay all debts. Take an interest in all State & government elections. To uphold all state la

Obey the laws set forth, be a church member & attend also pay all debts.

A good citizen should obey all laws and go to Church.

All good citizens will obey all law.

A good citizen should obey all laws.

Name & Date

Williams, John Wiley
6-10-63

Q. 19 (Interp.)

The Governor may call
the Legislature if he
need to.

Q. 20 (Duties)

A good citizen is
one who obeys the
law. Goes by the
laws of our Gov-
ernment. and to
maintain peace in
Miss.

One Negro gave an interpretation and statement of duties
of citizenship which were substantially similar to those in
this category.

Owens, Dorothy Jeanette
1-5-63The governor shall call
the legislature in ses-
sion when need.A good citizen
should be law
abiding and live
by the golden rule

(2) The following white registrants wrote substantially
similar answers as their interpretation.

The Governor may call the National Guard when
needed.

Their duties of citizenship are also substantially similar.

Name & Date

Hart, James Walter
1-31-63

Q. 19 (Interp.)

The governor can call
out the national Guard
if he wants to.

Q. 20 (Duties)

Should pay all
debt He should
go to church
He should vote.

[fol. 2198]

Rogers, Milton
3-26-63Call out National
Guard when needed.Should attend
church regularly
and pay all debts.Norris, Effie
3-21-63The governor may call
the national guard
when needed.A good citizen
should obey the
laws and attend
church.Hudson, Leffie Major
4-1-63Call the National
guard when you need
them.A good citizen
should go to
church and pay all
his debts.Burnham, Ella Ruth
3-28-63The Governor may
call the national
Guard when he needs
them.A good citizen
should go to church
and obey the lawsDavis, Tom
3-30-63The governor may call
the National guard
when he needs them.A good citizen and
go to church, and
obey all laws.Davis, Barbara H.
3-30-63The governor may call
the National guard when
he needs them.A good citizen
and go to church,
and obey all laws.

Name & Date

Mauldin, Mrs. Bervin
3-30-63Mauldin, Mrs. Charles B.
3-30-63Dozier, Mrs. H. A. Jr.
3-29-63Coleman, Willie H.
4-2-63Johnson, Mrs. Janice Mae
4-8-63

[fol. 2199]

Batte, Tommy
4-13-63Rainey, Charlene
5-25-63Ishee, Ruby Irene
5-25-63Clark, Ruby F.
6-22-63

Q. 19 (Interp.)

the governor may call
the National guard when
needed.The governor may call
the National guard when
need.The governor shall call
the National guard when
needed.The governor can call
the National guard at
any time.The governor may call
out National Guard when
needed.He can call the
National Guard when
he needs them.The governor shall call
out the National guard
if he needs one.The Governor shall call
out the National Guard
if he needs one.The governor can call
out the National Guard.

Q. 20 (Duties)

A good citizen
should go to
church and obey
all laws.A good citizen
should go to
church and obey
all laws.A good citizen
should obey all
laws, and attend
church.Everybody should
go to church.A good citizen
should vote for
the person he
thinks will make a
government in the
community. A
good citizen should
obey the law. A
good citizen should
take part in
Church and commun-
ity organizations.A good citizen
should go to
church and obey
all laws.A good citizen
should obey all
laws and go to
church.A good citizen
should obey all
laws and go to
church.A good citizen
should obey all
laws and attend
his church.

(3) The following white registrants wrote substantially similar answers as their interpretation.

The Governor can issue pardons.

Their duties of citizenship are also substantially similar.

Name & Date	Q. 19 (Interp.)	Q. 20 (Duties)
Cercio, Mrs. Cora 1-2-63	The governor can issue Pardons.	A good citizen should live by the golden rule.
Rawls, Mrs. Magdaline 12-2-63	The Governor can pardon people.	A good citizen should vote.
Rogers, James Preston 1-4-63	Governor may issue pardons.	ObeY all laws and vote.
Crosby, Ruth E. 1-7-63	The governor can issue pardons.	A good citizen should vote and obey all laws.
Davis, Travis 1-7-63	The governor can iss pardons.	A good citizen shall obey all laws.
Aultman, James Coy 1-10-63 [fol. 2200]	The governor issues pardons.	A good citizen should vote.
McKenzie, Hollie F. 1-11-63	The governor may grant pardons.	A person should obey all laws and vote.
Harvey, Susie 1-29-63	He, may issue pardons.	Go to church and vote.
Sanford, Lizzie 1-30-63	The governor can pardon	A good person should go to church and obey the laws.
Bush, Lula Mae 1-30-63	The governor can issue pardons.	A person ought to vote and pay tax.
Norris, Frank Arnold 2-1-63	Governor can get pardon.	A good citizen can vote.

- (4) The following white registrants wrote substantially similar answers as their interpretation.
The Governor enforces the law.

Their duties of citizenship are also substantially similar.

Name & Date	Q. 19 (Interp.)	Q. 20 (Duties)
Miller, John Morris (Mrs.) 4-8-63	Enforce the laws.	To obey the laws.
Williamson, Alson 5-4-63	The Governor enforces the laws.	Every one should vote and go to church.
Hudson, Mrs. LaRue 5-4-63	The governor may enforce the law.	A good citizen should go to church, & vote.
Roberts, Mrs. Duncan 5-6-63	The governor enforce the law.	Every Body should go to church.
Madden, Lizzie Mae 5-11-63	The governor may see that the laws are enforced.	Good citizen should obey all law and attend church.
Duckworth, Irvin I. 5-11-63 [fol. 2201]	The governor is responsible for law enforcement.	A good citizen should obey all laws and vote.
Dickens, Bertha 6-5-63	The governor of law are enforce.	A person shall go to church pay all one's debts.
Lott, Mrs. Charles H. 6-7-63	The Governor of this state will see that the local and State laws are enforced.	Should obey all laws, vote, pay taxes.
Sanford, James C. 7-3-63	That the governor will enforce all laws made by the people of the State of Miss.	Assist in any way possible to enforce the laws of the State and Nation. Vote when ever possible. Recognize and obey all laws. Be ready to serve his State and Nation.

(5) The following white registrants wrote substantially similar answers as their interpretations. They all wrote a combination of two or more of the following phrases:

1. Call the legislature into session
2. Call the National Guard
3. Issue Pardons
4. Enforce the laws

Their duties of citizenship are also substantially similar.

Name and Date	Name and Date
Rutland, Mary Cornelia	Rutland, Lila
1-29-63	1-28-63
Easterling, Keeneth D.	Easterling, Keeneth D.
1-29-63	1-29-63
[fol. 2202]	Patrick, Zera
	1-29-63
Knotts, McAuther	Rutland, James Franklin
3-30-63	1-31-63
Bush, Travis	Easterling, Jean M.
1-30-63	3-18-63
Rogers, Wayne R. L.	Morgan, Mrs. Lorena L.
1-30-63	3-26-63
Sanford, Haskell David	Yates, Woodard Hugh
1-31-63	7-1-63
Shoemaker, Thomas Earl	Hudson, Kelvia Jean
1-31-63	B1.
Loftin, Harry Randal	Hood, Clarence Robert
1-31-63	1-2-63
Broom, Ruby Nell	Strebech, Miss Alice
1-31-63	1-1-63
Williamson, Robert A.	Leggett, Sonia Ann
B1	1-11-63
Mauldin, Alvin	McQueen, Mary Jane
7-5-63	1-19-63
Aultman, Mrs. Margie R.	McRaney, Doris N.
(Mrs. Oliver D.)	1-19-63
3-14-63	
Quick, Dorothy Louise	Stringer, Odious C. Jr.
5-11-63	1-23-63

Name and Date

McRaney, Mary Neil
10-24-62

Rogers, Tommy B. >
1-8-63

McRaney, Mrs. Ray
1-10-63

Pitts, Irene
1-30-63

Herrin, R. Glen
1-31-63

McRaney, Sarah Jean
1-12-63

[fol. 2203]

Coleman, Billy H.
3-14-63

Miller, James Earl
3-16-63

Knight, Annie Ruth
6-29-63

Davis, Gergrude E.
1-9-63

Blackwell, Marie G.
1-10-63

McLaurin, Mrs. L. B.
1-23-63

Scarborough, Nono Mae
1-28-63

Moverise, Johnny Earl
1-28-63

Parish, Roger Dexter
1-29-63

Moulds, Carrie Ann
1-29-63

McGren, Mary Lou
1-29-63

Stewart, Sammie Ray
1-30-63

Leonard, Glynn F.
1-29-63

Name and Date

Rogers, Gale Albert
1-28-63

Stevison, Franklin Riley
7-5-63

Bates, Winnie Davis
3-5-63

Barber, Mattie
3-5-63

Lott, Ella Jeanette
3-9-63

Hutcherson, Ava Ruth
3-9-63

McLaurin, Ruth
2-2-63

Little, Mrs. John Paul
3-8-63

Taormina, Frank H.
5-21-63

Welch, Isabell
6-29-63

Bullock, Shirley Faye
6-29-63

Stuky, John E.
2-1-63

Knight, J. W.
2-1-63

Crosby, Evelyn L.
2-4-63

Crosby, Bobby Joe
2-4-63

Collins, Julia Grace
2-4-63

Wade, Dimple R.
2-4-63

Furrell, Benton
2-12-63

Vineyard, Loren Neal Jr.
2-25-63

Stewart, Bobby Whyatt
3-4-63

Name and Date

McLimore, Mrs. James H.
1-31-63
McKinley, Dorothy Lee
2-2-63
McLaurin, Lindon
2-2-63

[fol. 2204]

Knight, Mary Magdalene
3-11-63

Sellers, Martha G.
(Mrs. Clem)

3-16-63

Knight, Mrs. W. P.
3-23-63

Keyes, Sara Jane M. (Mrs.
John)

3-27-63

Clayton, William Franklin,
Jr.

3-28-63

Stroud, William F., III
4-1-63

Williams, William B.
4-5-63

Williams, Ruth
4-5-63

Duckworth, Ruby
4-8-63

Sanford, Jerry C.
4-10-63

Mitchell, Sarah Nell
4-11-63

Lott, Jackie Lee
4-20-63

Bagley, Worth Weldon
4-20-63

Wise, Carl Leonard
4-23-63

Wise, Mrs. C. L.
4-23-63

Name and Date

Brooks, Gaston Wheeler, Jr.

Bates, Norman
3-5-63

Norris, Cortis
3-5-63

Name and Date

Mooney, Willie Curtis

4-29-63

Byrd, William R.

6-1-63

[fol. 2205]

Parker, Willie Everett

2-1-63

Pickering, Tommy Ross

2-1-63

Harvey, Evans Jr.

2-4-63

Harvey, Jewel Faye

2-4-63

Lightsey, JoAnn Elizabeth

2-5-63

Pope, Ethel

2-25-63

Wade, Gerald

3-4-62

James, Ben Bura

3-19-63

Speed, Linda Lou B.

3-22-63

Ashley, Mrs. Dorothy Ella
(Mrs. Rudolph)

3-27-63

Yawn, Ruby Doris

3-28-63

Norris, Shelby R.

3-30-63

Herrin, Mrs. Estelle

Florence

3-30-63

Rogers, Mrs. Fred K.

4-13-63

Ponder, Jerry Lee

4-22-63

Gibson, Seth

5-13-63

Name and Date

Bagley, Mrs. Ward

3-5-63

Pope, Clyde

3-22-63

Clayton, Sandra Melville

3-28-63

Lowery, Paul K.

3-30-63

Taylor, Roxie Lee

4-5-63

Johnson, Basil

4-8-63

Brown, Lee Max

4-11-63

Lee, Jimmy Dale

4-11-63

Graves, Edward A.

4-12-63

Saulters, Bellie G.

4-12-63

Davis, Mary Alice

4-15-63

McGowan, Douglas N.

4-15-63

Ingram, Hermon Eugene

2-1-63

Vineyard, William P.

2-11-63

Cowart, Mrs. L-L.

2-20-63

Warren, Eunice

3-2-63

Name and Date

Carter, Mrs. Marbeth Y.
(Mrs. James A.)
6-29-63

[fol. 2206]

Heggins, Jimmy F.
3-23-63

Graves, Ronald C.
4-6-63

Bullock, Jerry
4-6-63

Hynum, Peggy Ann
4-8-63

Hynum, Cecil D., Jr.
4-8-63

Loftin, Kay F.
4-8-63

Cranford, George T., Jr.
4-13-63

Gandy, Sidney D.
4-30-63

Boleware, Millie E.
5-4-63

Adams, Mrs. Guy
5-14-63

Wade, A/C Jerry Mitchell
5-25-63

Allen, Mrs. Tolie
6-12-63

Shows, Gerald D.
6-29-63

Miller, Jerry
9-1-62

Name and Date

Aultman, Mrs. Lorena
3-22-63

Three Negro registrants wrote interpretations and duties of citizenship which were substantially similar to those in these categories.

Name and Date

Mamie Booth
2-15-63
Pearlie V. Burkharter
3-5-63

Name and Date

Zula Mae McKay
4-8-63

[fol. 2207]

C. Grading

The following white registrants were registered to vote though each left questions 18, 19 and 20 and the oath signature blank. Therefore they did not give an interpretation of a section of the Mississippi Constitution or a statement of the duties and obligations of citizenship.

Emmett Ryals	4-25-62	Station Creek Precinct	18, 19, 20—Bl. Oath Sign.—Bl.
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Billy Roger Blackwell	5-28-62	Seminary Precinct	18, 19, 20—Bl. Oath Sign.—Bl.
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Since the adoption of the perfect form requirement in 1962 many registrants have been registered though their forms contained omissions and blank lines:

- 90—failed to sign the Application Form Signature
- 74—failed to sign the Oath Signature
- 15—failed to list their Election Districts

[fol. 2208]

Marion County #74

Part II

Application Forms

1&2. Number of Application Forms

Period includes forms from 9/5/62 to 7/23/63.

White

Accepted—583

Rejected—20

Pending—11

Negro

Accepted—20

Rejected—12

Pending—2

Race not known

Accepted—4

Rejected—3

Pending—0

Selection of Constitutional Sections

Section	White	Negro	Unknown
14	98	7	3
20	1	0	0
22	7	1	0
23	31	1	0
28	12	0	0
30	110	6	2
33	1	0	0
97	1	0	0
98	27	1	2
108	1	0	0
123	144	7	1
130	1	0	0
167	64	5	0
208	5	1	0
209	1	0	0
240	30	0	0
262	1	0	0
263	7	0	0
265	34	2	0
Blank	0	0	1

[fol. 2209] b. Assistance to white applicants.

An analysis of the application forms shows numerous verbatim or almost identical answers to Question 19 (interpretation) and Question 20 (duties and obligations of citizenship).

1. Forms with verbatim or almost identical answers to Questions 19 and 20.

a) The following white applicants were required to interpret § 207 of the Mississippi Constitution ("Separate schools shall be maintained for children of the white and colored races").

	Q-19	Q-20
Bullock, Betty Jo So. Columbia Sept. 5, 1962	"Keep up the schools separated prevent mixing and inter marriage."	"obey the laws of the county and state in Which you live Pay vote tax keep qualified to Vote and take part in all lawful subjects."
Cox, Myrl B. So. Columbia Sept. 5, 1962	"Keepin in the Schools Separated Prevents mixing and inter Marriages"	"Obey the laws—the county and state in Which you live pay pole tax keep qualified to vote and take legal part in any lawful Subject."
Elliott, Nellie M. So. Columbia Sept. 5, 1962	"Keeping the Schools separated prevents mixing and inter Marriages."	"Obey the laws of the county and state in which you live pay pole tax keep qualified to Vote, and take legal part in any lawful subject."

The following two white applicants also were required to interpret §207:

	Q-19	Q-20
Peak, Lola M. So. Columbia Jan. 15, 1963 [fol. 2210]	"Separate school to prevent colored and white from mixing and marrying."	"Obey the laws of the state and county and to help enforce them."
Peak, Herman Ray So. Columbia Jan. 15, 1963	"Separate schools is to prevent colored and white from mixing and marry."	"To obey the county and state laws and to help enforce them."

b) The following white applicants were required to interpret §14 of the Mississippi Constitution ("No person shall be deprived of life liberty or property except by due process of law")

Group I

Smith, Ray Arthur
June 6, 1963

"No person life, property, or liberty can be taken away from him, except by law."

"Obey the laws of our country."

Brashears, Clara M. Kokomo
June 10, 1963

"No person life and liberty or property can be taken except by law."

"Obey the laws of our country."

Group II

Martin, Mary Edna
Columbia
June 10, 1963

"That no person shall be deprived of the life, liberty or property except by a fair trial in accordance with the law of Mississippi."

"To live a christian life and obey all the laws of the United States."

Martin, Elmer F.
June 10, 1963

"That no one shall be deprived of life, liberty or property except by due process of law by fair trial in accordance with the laws of Mississippi."

"To live by Gods words and obey laws of the country"

c) The following white applicants were required to interpret §30 of the Mississippi Constitution ("There shall be no imprisonment for debt").

Terry, Claudia F.
Foxworth
June 7, 1963

"A person can not be sent to prison for owing a debt."

"Obey the law."

May, Mrs. A. H.
So. Columbia
June 7, 1963

"A person cant be sent to prison for owing a debt."

"To obey the law."

[fol. 2211] d) The following applicants were required to interpret §265 of the Mississippi Constitution ("No person who denies the existence of a Supreme Being shall hold any office in this state").

Clark, Charles B.
Foxworth
Nov. 24, 1962

Q-19

"That would be a person who didn't believe in God."

Q-20

"Obey the law and pay your debts."

Lewis, Mrs. Beverly
Foxworth
Nov. 24, 1962

"That would be a person who didn't believe in God."

"Obey the law and pay your debts."

e) The following groups of applicants were required to interpret §123 of the Mississippi Constitution ("The governor shall see that the laws are faithfully executed").

Group III

Turnage, Arnold D.
Columbia
Jan. 31, 1963

"The governor will
enforce all laws."

"Be a good citizen
& obey all laws."

Posey, Tinie, Mrs.
Columbia
Jan. 31, 1963

"The Governor will
enforce all laws."

"Be a good citizen"

Group V

Reid, John W.

"The governor shall
see that the laws
are carried out or
obeyed"

"Obey the law"

June 5, 1963

McArthus, Doris

"The governor shall
see that all laws
are obeyed"

"Obey all laws"

June 8, 1963

Breland, Buford J.
Bogaloussa
June 9, 1963

"The governor shall
see that the laws
are obeyed."

"Obey the law."

Rester, Mrs. W. S.
Foxworth
May 6, 1963

"The governor has to
see that the laws
are obeyed."

"We must carry out
the duties and
obey the laws of
our government."

Ryals, John H.
Foxworth
May 11, 1963

"The Governor Shall
See that the laws
are obeyed."

"Obeying the laws
of the Government."

Crane, Ruth
Foxworth
June 11, 1963

"The governor shall
see that the laws
are obeyed"

"Obey the laws of
the government"

[fol. 2212]

Prine, Wayne
Columbia
June 6, 1963

"The governor shall
uphold the laws of
the state of
Mississippi and
see that they are
obeyed."

"Obey the laws of
our government."

2. Forms with identical or virtually identical answers to question 19. (Constitutional interpretation)

a) Section 14—Group I.

The following applicants include in their answer the phrase "Going through court," or its equivalent.

Q-19

Forbes, Charlene A.
Foxworth
Mar. 26, 1963

"a person cannot be deprived of life, liberty, or property without first going through court."

Lowe, Charles H.
Foxworth
Mar. 28, 1963

"a persons life, liberty, or property can not be taken away from him without going through a court."

Skipper, Wynn
Columbia
Apr. 16, 1963

"No person can be deprived of their life liberty or property without first going through the courts."

b) Section 98—"No lottery shall ever be allowed, or be advertised by newspapers, or otherwise, or its tickets be sold in this state; and the legislature shall provide by law for the enforcement of the provision; nor shall any lottery heretofore authorized be permitted to be drawn or its tickets sold.")

Johnson, Dorothy J.
Morgantown
Jan. 30, 1963

"No gambling allowed in the State of Mississippi."

Boyd, Elisha
Foxworth
Jan. 30, 1963

"no gambling allowed in the state of miss."

c) Section 123—"The governor shall see that the laws are faithfully executed.")

The following applicants interpret the section to mean that the Governor shall see that the "laws are obeyed" or its equivalent.

[fol. 2213]

Hodges, Lois T.
Pittman
June 10, 1963

"The governor sees that the laws are obeyed"

Rankin, Robert M.
Columbia
June 10, 1963

"The governor sees that the laws are obeyed."

Singley, Winston
Cedar Grove
June 8, 1963

"The governor see that the laws is obeyed"

Stogner, Wilda O.
Foxworth
June 11, 1963

"The Governor see the laws are obeyed."

DeLancy, Sanford W.
Columbia
June 8, 1963

"The governor shall see that laws are obeyed"

Ward, Mrs. George
Columbia
June 7, 1963

"The governor sees that all laws are obeyed."

Singley, Effel M.
Cedar Grove
June 7, 1963

"The laws should see that the laws are obeyed"

Stringer, Mrs. Levy
Foxworth
May 6, 1963

"The Governor sees the laws are obeyed."

3. Assistance on question 20. (duties and obligations of citizenship)

a. The following pairs or groups of applicants had verbatim or substantially identical answers to question 20. (Some of these applicants are also listed above as having similar or identical interpretations in their answers to Question 19.

I

Stringer, Carol E.
Columbia
Oct. 6, 1962

"Obey and uphold the laws of the Constitutional."

Robertson, Claudia C.
Goss
Sept. 6, 1962

"To obey and uphold the laws of the Constitution."

[fol. 2214]

Smith, Neda E.
Foxworth
Sept. 8, 1962

"To obey and uphold the laws of the Constitution."

McNease, Carlene K.
Columbia
Oct. 10, 1962

Holmes, Ruby L. W.
Foxworth
Dec. 20, 1962

Redwell, Carolyn
Oct. 10, 1962

Bedwell, Dewitt R.
Foxworth
Oct. 10, 1962

Ginn, Lonie R.
Kokomo-Stovall
Jan. 29, 1963

Lambert, Howard
Kokomo
Feb. 7, 1963

Lambert, Hattie
Kokomo
Feb. 7, 1963

Reid, John W.
Cedar Grove
June 5, 1963

Singley, Winston
Cedar Grove
June 8, 1963

Breland, Buford J.
Bogaloussa
June 9, 1963

Martin, James W.
Columbia
June 10, 1963

Smith, James H.
Kokomo
June 10, 1963

"To obey and uphold the laws
of the Constitution."

"to up hold & obey the laws of
the constitutional"

II

"One must vote and obey the
laws of the United States."

"One must vote and obey the
law of the United States."

III

"Obay the laws."

"Obay the Law"

"Obay the law"

"Obeays the law"

"Obey the laws"

"Obey the law."

"obey the Law."

"Obeys the laws."

[fol. 2215]

Hodges, Lois T.
Pittman
June 10, 1963

"Obey the laws"

Crane, Lillie B.
Foxworth
June 11, 1963

"Obey the laws"

Stevens, Loyce J.
Morgantown
Mar. 12, 1963

IV

"To obey the laws of the united states and to obtain peace in everyway possible."

Stevens, Ben F.
Morgantown
Mar. 12, 1963

"To obey the laws of the Government, and to help kept the peace in every way."

V

Graves, Mae Haddox
Columbia
Apr. 15, 1963

"Select Honest Honorable and Relieable officials ableing laws."

Graves, Talmadge
Columbia
Apr. 15, 1963

"Select Honest Honorable and Reliable officials to uphold our Laws."

VI

Anderson, Gladys C.
Columbia
May 3, 1963

"A good citizen should consist of being honest, loyal & faithful to the constitution of USA."

Anderson, John B.
Columbia
May 13, 1963

"It is being honest, Loyal & Faithful to the Constitution of the U.S.A."

VII

Aaron, Ruth E. Mrs.
Foxworth
Jan. 4, 1963

"To be law abiding citizen"

King, Boyd M.
Kokomo
May 13, 1963

"be a law abiding citizen."

Stomply, Nita L.
Columbia
May 27, 1963

"Be a law abiding citizen."

Terry, Larue
West Side of Marion St.
June 4, 1963

"Be a law abiding citizen."

[fol. 2216]

VIII

Brumfield, Hubert C.
Sandy Hook
May 29, 1963

"vote, paid your taxes, obey the laws"

Brumfield, Herbert S.
Sandy Hook
May 29, 1963

"To vote, pay your taxes, obey the laws."

IX

Horton, Floy E.
E. Columbia
May 30, 1963

"To obey and uphold the government every way and meet your duties and obligations as a citizen"

Horton, George D.
E. Columbia
May 30, 1963

"To obey and uphold the government in every way and meet your duties and obligations as a citizen."

X

Dairs, Larue Mrs.
Foxworth
Apr. 3, 1963

"Obey the laws of our government."

Foster, Richard C.
June 2, 1963

"Obey the laws of our government"

Brashears, William F.
Kokomo
June 4, 1963

"Obey the laws of our government."

Prine, Wayne
Columbia
June 6, 1963

"Obey the laws of our government."

Breland, Hattis O.
Columbia
June 7, 1963

"Obey the law of our government."

XI

Brea, Billy Joe
Sandy Hook
June 8, 1963

"Obey the laws of the government."

Bria, Nita Faye
Sandy Hook
June 8, 1963

"Obey the laws of the government."

Crane, Ruth
Foxworth
June 11, 1963

"Obey the laws of the government"

[fol. 2217]

XII

Batson, Luther C.
Columbia
Jan. 28, 1963

"faithful & truthful to Obey all the laws of all kind"

Batson, Ida O.
Columbia
Jan. 28, 1963

"Faithful & trueful to Obey all the laws of all kinds."

XIII

Stewart, Hershell -
Hattiesburg
Jan. 31, 1963

"Obey the law of the county state in which you live and vote for officials lto enforce the laws."

Singly, John W.
Columbia
Jan. 31, 1963

"Up holl all law in the country or state you and vote for officials to enforce the law."

Bennett, Harry J.
Columbia
Jan. 31, 1963

"Obey the law of the county and state and vote for official & maintain the law."

XIV

Jones, Patsy G.
Foxworth
Jan: 31, 1963

"To vote in all elections. To obey the laws."

Jones, Fred L., Jr.
Kokomo
Jan. 31, 1963

"To voat in all elections. To obey all laws."

The following applicants had similar answers to Question 20.

Robertson, Wilson E.
Columbia
Sept. 29, 1962

"To obey and uphold the laws of the United States."

Clower, Mrs. Banks
Columbia
Nov. 2, 1962

"I do understand my duties to obey and uphold the laws of Constitution of the United States of America."

Johnson, Robert E.
Foxworth
Nov. 6, 1962

"uphold and obay the constitutional of laws."

Sniith, George G.
Balls Mill, Foxworth
Nov. 8, 1962

"up hold and obey the Constitutional of the United States of America."

Swayze, Minnie Lou
Columbia
Nov. 17, 1962

"To uphold and obey the Constitutional Laws of the United States of America and the State in which I may be living."

[fol. 2218]

McCain, Roy, Jr.
Foxworth
Dec. 17, 1962

"I AM SUPPOSED TO UPHOLD AND OBEY THE LAWS AND THE CONSTITUTION."

Lott, John S.
Foxworth
Jan. 21, 1963

"To obey and uphold the laws of the Government of your country."

Buchanan, Janell
Foxforth
Sept. 29, 1962

"The duties of citizenship under a constitutional form of government would be to uphold and obey the laws of the Constitution."

The following applicants included in their answer to Question 20 a statement to the effect that one should obey the laws and see that they are enforced.

Sanders, Ruby B. H.
Sept. 8, 1962

"The duties of citizenship are to obey the laws and help enforce them."

Willoughby, Oscar S.
Cedar Grove
Dec. 21, 1962

"Obey and help inforce the laws of the Constitution."

Peak, Herman Ray
Columbia
Jan. 15, 1963

"To obey the county and state laws and to help enforce them."

Peak, Lola M.
Columbia
Jan. 15, 1963

"Obey the laws of the state and county and to help enforce them."

Anderson, Ellean
Foxworth
Jan. 29, 1963

"Vote for the right person to be put in office & one that our state and nation. More than one way. This also means find out more about the person you vote and uphold the laws & see to the best of your ability they are enforced."

Brasseal, Kenneth D.
Columbia
Jan. 30, 1963

"To see that there is liberty and justice for all. We shall see to it that to the best of his ability the laws are enforced."

Sauls, Franklin D.
Foxworth
Feb. 11, 1963

"Obey all laws & see that they are properly enforced."

Watson, Mrs. Layce
Foxworth
Feb. 11, 1963

"I must be duly registered. I must show evidence to the officers holding the election that I have paid my poll taxes—I must have resided in this state for two years and one year in the election district. Abide all our laws and see that they are enforced."

[fol. 2219]

Holland, James A.
Columbia
Feb. 13, 1963

Barber, Haril E.
Foxworth
Feb. 15, 1963

Williams, Effie L.
Columbia
Feb. 16, 1963

Johnson, John W.
Kokomo
Feb. 23, 1963

Barber, Donnie B.
Columbia
Mar. 8, 1963

Thompson, Dimple I.
Columbia
Mar. 16, 1963.

Forbes, Charlene A.
Foxworth
Mar. 26, 1963

Jackson, B. A.
Kokomo
Mar. 30, 1963

"abide by the Law carprate
with The Law and do your part
to see That They are enfarst"

"The government is made up of
laws and the civil officer are to
enforce them. We also have the
fredom to vote. for whom or
what we pleas. Abide by our
laws and see that they are en-
forced."

"up hold the Laws see they are
inforced"

"You are free to do anything as
long as it is done by the law of
the United States. To obey our
laws and to see that they are
enforced."

"A real honest, ready to help,
man are woman that has lived in
the United States and live by
our laws and try to see that they
are enforced."

"To be a good citizen is to be
friendly. worship God an try to
be nice to eveyone Abid by the
Constitution law. an try to see
that they are inforce"

"voting and up holding the law
and seeing that they are en-
forced to the best of our abil-
ity."

"To vote and to uphold the law
to the best I can and see that
they are enforced to the best of
my ability"

McKenzie, George H.
Foxworth
Apr. 1, 1963

"Abide by the laws and see that they are enforced exercising your duty to vote"

Ryals, Carrie E.
Columbia
Apr. 1, 1963

"We must obey and enforce the laws of our country at all times."

Beyers, Delores
Apr. 3, 1963

"To be a good citizen you should vote for what you feel is right. We will respect our law, try to see they are enforced."

Hutchins, Shelby H.
Columbia
Apr. 3, 1963

"Uphold and respect the laws. See that the laws are enforced to the best of my ability."

Dyess, Annie L.
Columbia
Apr. 11, 1963

"Abide by the law and see that they are enforce to the best of my abiliti"

[fol. 2220].

Pierce, Barbara Ann L.
Tylertown
May 13, 1963

"To be a good citizen and to have a citizenship, you need to be a good citizen and do the best you can for your country and your fellow man. We want to Recept our Law and see that they are enforced."

Stringer, George B.
Foxworth
May 4, 1963

"A good citizen is a person who have lived in his State at least six months or more, and have never broke any laws so have never committed any crimes. avide by the Laws and see that they are enforced."

Crawford, Elsie E.
Foxworth
May 10, 1963

"You should be curtious and understandig of other peoples feeling. Obey law makers and God. We should uphold laws of our government and try to see that they are inforced."

Johnson, Donald R.
Columbia
May 13, 1963

"Do not break any laws and see that all are enforced."

McKinsey, William
Sandy Hook
May 14, 1963

"All peoples work together to make the government a better and to serve the people better and that the peoples are the government and help to inforce the laws of our country."

Lambert, Ellis L.
Columbia
May 31, 1963

"THIS MENT WE WILL LET THE LAWS CARRIED OUT THE DUTY BY THE HELP OF PEOPLE.

We repest are Laws add to see that are inforced."

Singley, Robert
June 1, 1963

"Carrang out laws of our state and see thet they are enforced."

Jackson, Sythe R.
Foxworth
June 5, 1963

"Honesty, truthfull obey all the laws of the constituion and see that they are enforced."

Davis, Mrs. Wannell
June 11, 1963

"A person must be clean, sober, Honest. We want to respect our laws and see that they are enforced."

Luther, Everett E.
Columbia
June 15, 1963

"Obey the laws and try to see that they are in force."

Singley, Peggy J.
Columbia
June 26, 1963

"I should obey all the laws and help to enforce the law."

Buckley, Byron J.
Columbia
July 19, 1963

"As a citizen of a state, county or city it is my duty as a citizen to obey all laws and help t enforce them if called upon to do so. Served on the jury if called upon and take an active part om the various activities for the betterment of our country."

[fol. 2221] C. Grading.

(1) Recopying of Section or interpretation

The following applicants merely recopied the section assigned them as their answer to question 19.

Dunaway, Wanda J. R. "There shall be no imprisonment
Kokomo for debts."
Feb. 1, 1963

Thornhill, James C. "There shall be no imprisonment
Columbia for debt."
Feb. 2, 1963

Kiral, Andrew "There Shall Be No Imprison-
Columbia ment For Dept."
Apr. 5, 1963

McCain, Clyde "There shall be no imprison-
Foxworth ment for debt."
May 15, 1963

Webb, Courtney "The Governor shall see that
Columbia the laws are faithfully ex-
Jan. 14, 1963 ecuted."

Case, Albert L. "The Governor shall see that
Columbia the laws are faithfully ex-
Jan. 27, 1963 actued."

Giles, Blankford A. "The Governor shall that the
Columbia laws are faithfully executed."
Jan. 31, 1963

2. Interpretations which are not responsive to the section

The following applicants had unresponsive answers as their interpretation of the section assigned them.

Aaron, Ruth E. "I would be glad to help in any
Foxworth #123 way possible any governor or
Jan. 4, 1963 any other officer in any way that
is right."

Sanders, Eva Net
Columbia #167
Feb. 28, 1963

"All people should believe in the Constitution of Mississippi and should have live by the means of it. I think, and we have a better place to live. The officers that we elected should know the work they are appointed to do before they are elected. The officer should be good citizens of believe in the constitution government."

[fol. 2222]

Smith, Janice L.
Columbia #23
June 11, 1963

"That it is your duty to obey all the laws."

3. Wrong and right

The following white applicants, in answering Question 19, first gave a nonresponsive answer and then gave a standard correct answer.

Section 30

Smith, Mrs. Clyde
Columbia
May 29, 1963

"If all cistisans of Miss. would abide by state lawes, there would be no? prision dubts to pay. There shall be no imprison for dubt."

Hedgepeth, Valdrea E.
Morgantown
May 16, 1963

"People should not be sent to prison for a debt if there is chances to pay, they should pay debts. If sick there be some kind of way for them to be helped."

Barber, Donnie D.
Columbia
Mar. 8, 1963

"When one are somebody, gets in debt and gets without work, are gets handicapped etc. they should not be imprisoned In other word a person can not be put in jail are imprisoned in any way for oweing a debt."

Thompson, Dimple Irene
Columbia
Mar. 16, 1963

"Pay your debt and be honest with everyone. You can't put a person in jail for not paying a debt."

Forbes, Jonas B.
Sandy Hook
Feb. 26, 1963

"That I should not do anything to cause me to feel imprisonment to the citizens of the U.S.A. or the Lord Jesus Christ. Have a clear consus at all times. I shall not neglect to pay my debts so as to cause me to be sent to Prison for doing so. Therefore a Person cannot be sent to iPrison for oweing a debt."

McKenzie, Jerry W.
Foxworth
Mar. 1, 1963

"A man should be gived a job; and be make to work out his debts than to be sent to prison where he can't. A man cannot be sent for imprisonment for owe a debt."

Turnage, Forrest, Jr.
Tylertown
Mar. 6, 1963

"The Constitution of Missis-sippi gives the people of the State the right to be to pay their bills without any fear of im-prisonment. A person don't have to be afraid of going to jail because he owes someone. A per-son cannot be put in jail for owing a Debt."

[fol. 2223]

Crain, Rita J.
Tylertown
Feb. 9, 1963

"Sometimes a person cannot fully be held responsible for a debt therefore imprisonment would not be an example of our liberty. By giving people chances and helping them in freedom to work out their debts, people are less apt to have as many debts. No one can be jailed for owing a debt."

Section 123

Wisecup, Mrs. Raymond
Columbia
Feb. 28, 1963

"I feel people will obey the thing that the governor tell you to do an vote for whom they wish—an see that no laws are executed but those that are good, for Mississippi people—it is the duties of the governor to see that the laws are enforced."

Broome, Edna G.
Columbia
Mar. 19, 1963

"I believe the governor should be a christian which would help him very much in seeing that the laws are faithfully executed. The governor being head of our state it is his duty to see that the laws are enforced."

Graham, Patsy R.
Columbia
Apr. 22, 1963

"I think that the law is one of the most executed thing in Mississippi. I hope it will stay that way under the governor's orders. The governor is head of states & duties are to see that they are infored."

Lambeft, Mrs. Shirley
Columbia
May 31, 1963

"We will do his job if lall will respect the law. And all concern, by doing the right things. He is to see that the laws are inforsed."

Smith, Rachel S.
Sandy Hook
Mar. 15, 1963

"Section 123, I believe should mean that the governor would try to the best of his ability to abide by the laws of the constitution as well as the laws of God. To use his knowledge to the best of his ability for the benefif of his state and also his country. The duties of the governor are to see that the laws are enforced."

Negro Applicants

There does not appear to be any pattern of standard answers indicating that help was received by Negro applicants in filling out their forms.

[fols. 2224-2241] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action Number 3312

[Title omitted]

ORDER OF THREE JUDGE COURT TAKING MOTIONS UNDER
ADVISEMENT—November 5, 1963

This Cause coming on to be heard before a statutory three judge court at Meridian, Mississippi, on October 30, 1963, on motions of the State of Mississippi to dismiss this suit for the reasons therein assigned; and the Court having heard arguments of counsel thereon:

It Is Now Ordered and Adjudged by the Court:

- (1) That said motions are taken under advisement by the Court on briefs filed, and the parties are invited to file any further independent briefs desired in support of said motions within ten days after this date;
- (2) That the order of this Court herein dated September 23, 1963, is vacated; and pending a decision by the Court on said motions, the parties may resume all discovery processes desired by them and available to them under the Federal Rules of Civil Procedure.

Ordered, at the instance of and for the entire Court, this November 5, A. D., 1963.

Harold Cox, United States District Judge.

[fol. 2242] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action Number 3312

UNITED STATES OF AMERICA, Plaintiff

v.

STATE OF MISSISSIPPI; ROSS R. BARNETT, JOE T. PATTERSON,
HEBER A. LADNER, AS MEMBER OF THE MISSISSIPPI STATE
BOARD OF ELECTION COMMISSIONERS; H. K. WHITTINGTON,
CIRCUIT CLERK AND REGISTRAR OF AMITE COUNTY; MRS.
PAULINE EASLEY, CIRCUIT CLERK AND REGISTRAR OF CLAI-
BORNE COUNTY; J. W. SMITH, CIRCUIT CLERK AND REGIS-
TRAR OF COAHOMA COUNTY; MRS. MARTHA TURNER LAMB,
CIRCUIT CLERK AND REGISTRAR OF LEFLORE COUNTY; T. E.
WIGGINS, CIRCUIT CLERK AND REGISTRAR OF LOWNDES
COUNTY; WENDELL R. HOLMES, CIRCUIT CLERK AND REGIS-
TRAR OF PIKE COUNTY, Defendants

Transcript of Hearing of October 30, 1963

APPEARANCES:

Honorable Robert E. Hauberg, United States Attorney,
Jackson, Mississippi; Messrs. John Doar and Robert Owen,
Department of Justice, Washington, D. C.; All Appearing
for the Plaintiff.

Messrs. Dugas Shands, William A. Allain, Jr., Peter
Stockett and Charles Clark, Attorney General's Office, Jack-
son, Mississippi; Honorable T. F. Badon, Liberty, Missis-
sippi; Honorable Joe T. Drake, Port Gibson, Mississippi;
Honorable Leon Porter, Clarksdale, Mississippi; Honora-
ble Aubrey Bell, Greenwood, Mississippi; Honorable
[fol. 2243] W. G. Burgin, Jr., Columbus, Mississippi;
Honorable Semmes Luckett, Clarksdale, Mississippi; Hon-
orable Chester Curtis, Clarksdale, Mississippi; Honorable
Hardy Lott, Greenwood, Mississippi; Honorable W. H.
Jolly, Columbus, Mississippi; Honorable J. O. Sams, Jr.,
Columbus, Mississippi; All Appearing for the Defendants.

Be It Remembered that on, to-wit: Wednesday October 30, 1963, the above styled and numbered cause came on for hearing before the Honorable Ben F. Cameron, United States Circuit Judge, Honorable John R. Brown, United States Circuit Judge, and Honorable William Harold Cox, United States District Judge, on motions, at Meridian, Mississippi, in the Eastern Division, when the following proceedings were had and entered of record:

By Judge Cameron:

I have doubt about the right of the United States to bring this suit at all and I have doubt about why the individual defendants are joined and what is the connection between them that makes this a suit which can be entertained as against by the Government against the State of Mississippi and against the individuals and I have doubt about whether the State of Mississippi or any state can be sued in this action. Now I would like for the Government to tell me in as few words as they can what the theory is for under which the United States brings this action, whether [fol. 2244] its under Statute 1971 or whether the Constitution or whether its from decisions. I didn't find any decisions directly in point. I found quite a lot of dictum or argument in this Douglas case and Lassiter and other cases we do not intend to hold and so forth. I imagine that the Government was getting into the vacuum by what was not held in the Lane case, the Arkansas cases and the Douglas case. Of course we went through this at great length on prior occasions in Darby against Daniel and a great deal was conceded there that evidently is not conceded here; for instance the NAACP attorneys agreed that Constitution of 1890 was a valid enactment; the specific clause which was amended I believe in 1955 they attacked only the amendment and of course the Government now claims the whole thing is invalid but it may be that they set claim on the argument that its invalid because it was an act of conspiracy to keep negroes from voting or that its invalid because its been used solely for that purpose through the years and I would like for you all to take about twenty or thirty minutes and give me your ideas in general about that, Mr. Doar, if you will please sir.

By Judge Cox:

Before Mr. Doar starts I would like for somebody to tell me why the five registrars are proper parties to this suit why eighty-two registrars shouldn't be indispensable parties and the suit shouldn't be dismissed for lack of necessary and proper parties if these five registrars are even proper parties.

[fol. 2245] By Judge Cameron:

Proceed now, gentlemen, if you will, I know its not in order but we are going to question to get at what we had any how.

By Mr. Doar:

If the Court please, this suit is a suit brought by the United States against the State of Mississippi and certain of its officials for the purpose of determining the constitutionality of various state statutes and constitutional provisions of the State of Mississippi with respect to the procedures and standards that are to be applied in connection with registration for voting in Mississippi. The suit then is basically in the nature of a declaratory judgment action which is authorized by Section 1971 of the United States Code. Now as I understand the Court's question, Judge Cameron's question is why is this does the Government of the United States have the power or the authority to bring this type of suit against the State and second, or maybe that's the second issue. The first question is does the Government of the United States have the power and the authority to bring an action contesting the constitutionality of state statutes.

By Judge Cameron:

Well, in general I know the Raines case held in that case and in the Lincoln County, Alabama case which I was one of the ones got bumped in they that you could sue the [fol. 2246] state there because all the individuals were non est but this seems to be a suit not for A, B, C and D but for all negroes, maybe three-quarters of a million of them, against the State of Mississippi and if you are proceeding

under 1971 it occurred to me that you have to bring yourself within the end of that statute and maybe I'm wrong about what's involved because I have had very little time to work this out but you have stated in general.

By Mr. Doar:

And as I understand Judge Cox's question was why are the five, only five, six registrars joined as defendants in this case shouldn't the six registrars enjoined aren't the other seventy six registrars of the state indispensable parties to the suit and shouldn't the action be dismissed for failure to join indispensable parties. Now—

By Judge Brown:

Well, the reverse of that may be present too if they are merely here for illustrative purposes say to illustrate practices going on generally then are they should they be parties at all and that's one of the questions we dealt with once before.

By Mr. Doar:

That's right, Your Honor. In bringing this suit against the State as well as the six registrars in Mississippi, Your Honor, the State was selected as a defendant because first [fol. 2247] of all this case involved state law, the constitutionality of state law and under Section c of 1971 as amended by the 1960 Act the Congress of the United States provided that acts and practices of registrars shall be deemed the acts of the State and the state will be joined as a party defendant. Now with respect to the particular case that Judge Cameron had reference to uh the case of U.S. versus Alabama that case involved a factual situation where there were no registrars but it is our position first, Your Honor, that the statute cannot be you give effect to the plain meaning of the amendment to Section C of 1971 which provided that the acts of the registrar shall be deemed that of the state and the state may be joined as a defendant that this cannot be read to include just those factual situations where there are no registrars in being and the cases that have interpreted that amendment, Your Honor, in the district courts and the court of appeals have

universally held that the state is a proper party under that statute. Its true that in some cases no injunction is issued against the state and in the last case that Judge Cox decided in the case of U.S. versus Wood the State was dismissed from the action but I did not read Judge Cox's opinion to mean that the state could not be joined as a party where there was an existing registrar under that amendment to section 1971 c.

By Judge Cox:

You couldn't get that out of that because it wasn't [fol. 2248] necessary.

By Mr. Doar:

I agree with that, Your Honor.

By Judge Cameron:

What did we hold on the Wood case?

By Mr. Doar:

You haven't had the case, it was just decided the other day.

By Judge Cameron:

I mean we decided it and sent it back didn't we.

By Mr. Doar:

Well, Your Honor, that case involved Wood you are talking about another Wood case where the state was not a party.

By Judge Brown:

That was injunction against criminal prosecution.

By Mr. Doar:

That's right. That was a different case, Your Honor.

By Judge Cox:

What do you understand that word deem to mean, is that a prima facia case, is that what the statute is trying to say that it shall be deemed to be state action, does that mean it shall be prima facia subject to rebuttal or do you understand it to be absolutely conclusive?

[fol. 2249] By Mr. Doar:

No, I understand for the purpose of joining the state.

By Judge Cox:

It says deemed.

By Mr. Doar:

Yes. I understand the provision to provide the state is a proper party defendant and may be sued.

By Judge Cameron:

We held in the Department of Agriculture case a fellow raised too many peanuts and tried to eat them around the fire at night that deem meant absolutely conclusive it established in other words it had no ifs, ands and buts about it and as usual I wrote a dissent in that and there's two sides to it I hope but there the majority held that deem meant that it is, it is the action of the state.

By Judge Cox:

You might run afoul of due process if there's such a thing.

By Mr. Doar:

Well, in answer to Judge Cameron's first question the State was selected as a defendant because of the authority of the 1960 amendment to Section 1971c and the state was selected as a defendant because this case involved the unconstitutionality of state statutes. Now the five local—

[fol. 2250] By Judge Cox:

Do I understand that they are just a formalistic party or an actual litigant?

By Mr. Doar:

No, I regard them very uh I regard them as an actual litigant.

By the Court:

Not just there for window dressing or legalistic purposes?

By Mr. Doar:

Not put there for window dressing or legalistic purposes at all but put there because this involves a very, very clear issue between the law of the state and the law of the land and if Congress has the power if Congress authorizes the suit against the state if there ever was a factual situation where the suit should be against the state this is it. Here you have the United States of America challenging the entire scheme of registration in Mississippi. What more uh what better way to peacefully resolve the constitutional issue than to have the issue resolved between the Federal Government and the State Government.

By Judge Brown:

But now you have slipped off into another thing have you. This is not the question as I understood Judge Cameron wanted some enlightenment on was the right of the [fol. 2251] United States to bring the suit against either the registrar or the other state officials as such and not the question of the amenability of the State of Mississippi to suit as a defendant.

By Judge Cameron:

I asked three questions really. How can the United States maintain at all and second what is the relevance of all the testimony you want to take of what different individuals have done to your suit saying that these enactments are per se ipso facto illegal and the third is can you sue the state. We have a case neither one of you cited over here in

Alabama that Judge Rives and I said that the union and every state in it are immune to suit unless they consent and Judge Brown wrote a special concurring opinion saying that's not true. I don't doubt the difficult material we are on there.

By Judge Brown:

Now cert has been granted so I don't know who's right.

By Judge Cameron:

Has it been granted?

By Judge Brown:

Just been granted. That's the Pargon versus Alabama Dry, Alabama State Dock Commission.

By Mr. Doar:

Well, the Government's theory, Your Honor, was that there was no constitutional barrier for a suit by the United States against the State.

[fol. 2252] By Judge Cameron:

But is there any authority for it from the Supreme Court?

By Mr. Doar:

Well, the case of uh, the case of the United States versus, in the civil rights field?

By Judge Cameron:

Yes sir.

By Mr. Doar:

Well, first of all let me say that since the case of the United States versus Texas involving a boundary dispute there's authority that the United States can sue a state.

By Judge Cameron:

Well, didn't they sue in the Supreme Court?

By Mr. Doar:

Yes, they did sue in the Supreme Court.

By Judge Cameron:

That's what the constitution says if we are going to follow the constitution. If the big heads are going to sue the little heads they have to go in the Supreme Court.

By Mr. Doar:

But I think in the case of the United States versus California the suit was brought in the District Court.

By Judge Cameron:

That's correct, that's on the railroad operation and [fol. 2253] business..

By Mr. Doar:

I believe that the statutes although the statutes can provide for suits against the state to be commenced in a district court and that is what our theory is the statutes have provided.

By Judge Brown:

Do you think you could bring this suit without 601 or whatever it is?

By Judge Cameron:

1971c.

By Mr. Doar:

Yes, we think we can but we don't think its necessary for the Court to reach that decision.

By Judge Brown:

What is that based on, just inherrent nature of the national sovereign?

By Mr. Doar:

No, its based upon the language of 1971a and 1971c first of all.

By Judge Cameron:

That's what he said, without them could you sue?

By Mr. Doar:

Well, he didn't say, excuse me, Your Honor. I am talking about 1971a without the 1960 amendment. Now you decided in the U. S. versus Alabama case without the 1960 [fol. 2254] amendment that the case uh you could not bring a suit against the state. Now we argued that the Court was wrong on that and we took an appeal to the United States Supreme Court and the Court said that that issue was not necessary for decision because of the statute but our position remains the same and that this could be done under 1971 absent provision of the acts and practices of the registrar shall be deemed those of the state.

By Judge Cameron:

But the Supreme Court said in that case that we are merely saying that because the statute says so and nobody challenges the constitutionality of the statute and we leave wide open the question of whether in such a case Congress can give the right to sue a state and also about three weeks ago, I reckon not yet published, Judge Rives and Judge Hayes and I in a suit your suit against Atkins and others over there at Selma held that the question of whether the state could be sued was not passed on and it was left as a wide open question because we looked back at the Macon County case and that's what the Supreme Court had done. Now as I understand it the other side claims that the right to sue in the Macon County, Alabama case existed because of the facts of that case everybody had quit or died or moved away and wasn't anybody else to sue and the Supreme Court merely said we look at the statute and it says you can sue so go ahead and sue the state and then but we [fol. 2255] don't decide whether that's constitutional or not. I wonder if you have got any authority, Court of Ap-

peals would be better than District Court, but have you got anything from the Supreme Court that ever resolves the reservation they held in the Alabama case that we will not pass on whether the statute under which you proceed is constitutional or not.

By Judge Brown:

I am wondering if in the last Lynd opinion, its a per curiam, did we affirm the injunction against the State?

By Mr. Doar:

Yes, you did.

By Judge Brown:

We had so much in that case I can't recall. I know Mr. Stockett argued for the state. Was the constitutionality of 601 raised in that case. I don't think we wrote on it.

By Mr. Doar:

I don't think it was, Your Honor.

By Mr. Stockett:

No, Your Honor.

By Mr. Doar:

The problem uh the fact is that in many cases or at least several cases the Court of Appeals and the Supreme Court held that and affirmed cases where the state has been sued under 1971 but the constitutional issues have never been fully briefed or argued or has an opinion been written on [fol. 2256] them to my knowledge, Judge Cameron.

By Judge Cameron:

Well, then it is open for us, we listen to the Court of Appeals for this Circuit and all others but we are not bound by it and to my mind a great deal the Court of Appeals for the Fifth Circuit has written is not good law. I think we worked too fast and too far and we didn't give time for consideration and I wouldn't feel bound to follow that, I

would feel persuaded. If the question is open that's what I am asking and the Supreme Court has not foreclosed what it held up in the Alabama case, that is the constitutionality of 1971c as applied to the state.

By Mr. Doar:

Well, I would like to refer to your decision in the case of U.S. versus Alabama which Judge Hutchinson wrote the opinion and to the language in that case that uh and I would like to read it to the Court if I might.

By Judge Cameron:

I didn't say it but I would like to hear it.

By Mr. Doar:

The Court said absent such specific conferring of jurisdiction a Federal Court would not, indeed could not assume jurisdiction over a sovereign state without a precedent determination that though the jurisdiction had not been expressly conferred the language of the invoked statute carried [fol. 2257] the necessary the unavoidable implication that Congress upon the gravest consideration and after the utmost thought and deliberation had intended and did confer it. Now first with respect to that paragraph its our theory that Congress under the——

By Judge Cameron:

In other words you think we were saying there that although we didn't have to say you think we were saying that we would not infer the power to sue the Federal Government until Congress in explicit words has said so but if it had said so we would hold otherwise.

By Mr. Doar:

That's right.

By Judge Cox:

That doesn't answer the question for me at all. I have read it very carefully.

By Judge Brown:

Well, isn't the answer really that until the issue is posed and authoratively-ruled on it is open and it has not yet been ruled on.

By Mr. Doar:

That is correct.

By Judge Brown:

All Judge Hutchinson is saying there is that as I read it that if the statute by implication states that Congress felt [fol. 2258] in its judgment that action against the state was proper then the Court would find or could find the basis for allowing the suit but here there was no such implication that could be drawn from the words of Congress and there would always be I assume a question of whether when Congress declared expressly what its policy was they have done it here without a doubt whether they may constitutionally do so.

By Mr. Doar:

That's correct.

By Judge Cameron:

They did it to answer one explicit case, I guess you got the congressional history on that and I was watching it mighty close, they did it only to meet the Alabama situation as we all understood at the time and that's what the other side contends now and if its shedding close to unconstitutionality we would not assume that Congress is even going to get near the unconstitutional particularly when as here you are trying to fasten on the State of Mississippi a bad motive down in its own breast as a body politic when you have got a half a dozen or a dozen or two dozen individuals who have abused the discretion placed in them. Isn't that all you want to prove by these people whose depositions you are taking that in Amite County that one negro had registered, therefore, the Clerk is bound to have in representing the State of Mississippi is bound to have discriminated?

[fol. 2259] By Mr. Doar:

No, what we wanted to prove by the depositions referred to, Your Honor, was that the statutes were being used and constitutional provisions were being used and how they were being used not with respect to whether a particular negro was discriminated against but just exactly the technique which was used by the Registrar in Amite County for administering the statutes.

By Judge Brown:

Now these are illustrative you think you will undertake to show will you that this is illustrative of the pattern or the practices followed generally throughout the state.

By Mr. Doar:

Well, if we took a number of them we would show the practices.

By Judge Brown:

Or the Court could infer it if you had six or seven:

By Mr. Doar:

We would show the practices that have been followed through the State in how the statute was administered.

By Judge Cameron:

And you think that would fasten on the State forever the odium of having mistreated a part of its citizens by refusing them voting rights and when you have got 1 or 50 or 81 in various times you would say that you have given that dog [fol. 2260] an awful bad name and you just get rid of him and that's what it amounts to. In other words I haven't yet seen what you are proving and how its relevant to this case when you prove that in individual cases negroes have been discriminated against. They would be discriminated against if you just have an age qualification there would be some registrars say you say our are 21 but I know you are not so you couldn't have any possible limitations that wouldn't be misused by some people and I know some Court

and our Court probably has fallen for it but I am not going to fall for it. I just think that's carrying the crusade too far and too fast and I think the public opinion of America today is showing that too and what I want to know is the only reason you have got these individuals in is to show that they have discriminated, more particularly registrars so that you can fasten on the State the blame for having a bad statute or a bad constitutional provision. Is that right?

By Mr. Doar:

I think, Your Honor, we could have just sued one registrar. Our theory is we could have sued one registrar, United States versus Lamb, the Registrar of Leflore County. We could have challenged in that suit the constitutionality of all of these state statutes.

By Judge Cameron:

There you are a little over my head. We say for days on this with lawyers not as good as you are but have been [fol. 2261] trained their whole lives to do nothing else and they didn't take any such position as that. They conceded that the question of administration of a statute or a constitutional provision is different from the essence of the statute and whether its legal or not but all I want—

By Mr. Doar:

(Interrupting) Your Honor, I cite for authority for that proposition the case of Davis versus Snell. Davis versus Snell was a suit by an individual negro against one registrar, one board of registrars in Mobile County and in that case the Court declared the statutes unconstitutional.

By Judge Cameron:

That's a fact. The Supreme Court came along in one page and said that's so if Davis versus Snell is going to run this whole country then the country hasn't got the constitution it used to have. Judge—workmen hammering and Court Reporter unable to understand—who wrote that is dead and we ought not to say anything about him but that case simply is out of step with what the Supreme Court has held many

times before and since because they decided that paper on newspaper advertisement that people were saying if you pass this we will keep all the negroes from voting so Judge Mullins just went wild with that case in my opinion and said that the whole statute is wrong. Now all I want to know is is that your position?

[fol. 2262] By Mr. Doar:

Well, I don't propose I didn't intend to address myself to the correctness or incorrectness of the decision in that case. I was addressing myself, Your Honor, to the fact that in that case the issues with respect to the constitutionality of the statutes were raised in a suit against one registrar.

By Judge Brown:

Well, now the fact that you could bring this suit against one person does that militate against your bringing it against six or against the State of Mississippi if you think for one reason or other and the statute permits it that this is—

By Mr. Doar:

(Interrupting) I don't believe it was.

By Judge Brown:

(Continuing) desirable?

By Mr. Doar:

That was our theory that it was desirable first to bring the suit against the State because this case involves state law.

By Judge Brown:

Well, now if I get, I think we have kind of ranged a little bit now for these nice three little questions. I don't know whether we can ever keep it in any kind of order to accomplish [fol. 2263] but as I get the theory of the Government it is that you could attack the statutes on their face against any one live body that has an official duty to carry them out

so that it is not a moot or an academic question but in these constitutional questions there is always the *Shuttlesworth* case and school segregation, *Lane* against *Wilson*, *Yitwo* against *Hopkins*, all of them, a question of valid apparently valid law that's being customarily administered in an unconstitutional way and you are trying to do both of those things in this case against all of the people whom Congress says you can sue. Is that it?

By Mr. Doar:

Our case is not a case against the illegal or arbitrary administration of a valid law. Our proof is confined to the question of the constitutionality of the statute. Our theory is that the statutes are unconstitutional. A question of what proof we could offer and what is relevant and what is not relevant would depend on how the Court what the Court how the Court decided at the trial but I know of no theory to prevent us from attempting to show how the statutes were used first of all to show that they were in fact used and to give to the Court under one of our theories a concrete concrete illustrations of the unlimited discretion that this statute vests in the registrar and that's why.

[fol. 2264] By Judge Cameron:

You are going back to 1890 and got a whole volume in there about what's happened since 1890 and you ought to in fairness put in Mr. Bowers book *THE TRAGIC ERA* and Bancroft's history of how the slaves got into this country and who brought them here.

By Mr. Doar:

Judge Cameron, that that we consider that evidence relevant but I would respectfully call the attention that these volumes that you refer to were submitted to the defense in response to their interrogatories and we were instructed by the Court to make as full and complete answers to the interrogatories as possible.

By Judge Brown:

Have you answered all of them?

By Mr. Doar:

We have answered all the interrogatories, yes, and we have supplemented some of our answers just today.

By Judge Brown:

And you never sought any relief from any of the questions or have you sought any relief of any kind?

By Mr. Doar:

No, we haven't.

By Judge Brown:

Except continuance and extensions.

[fol. 2265] By Judge Cox:

As I understand you, Mr. Doar, you are not contending then that you are relying in any part upon any improper administration of any of these laws by any of these registrars because they did it exactly like the law provided you would still say the act was unconstitutional.

By Mr. Doar:

That's right.

By Judge Cox:

So then its not anything that they do or don't do that you are complaining of in reality here that makes the law unconstitutional.

By Mr. Doar:

Just what they do and how they do it.

By Judge Cox:

You are saying that what they do is exactly what the law tells them to do.

By Mr. Doar:

What the law permits them to do.

By Judge Brown:

Your theory is apparently that judges in deciding the constitutionality of these statutes ought not to draw upon their imagination or so called personal experience based on reading or any other source of knowledge but on actual facts as have been operated and practiced in Mississippi since [fol. 2266] 1890 or any other date of an ancient vintage.

By Mr. Doar:

That's our theory. Now we selected the six registrars because we wanted this was frankly we felt that we had the right to sue one registrar or two registrars or any number of registrars we wanted.

By Judge Cox:

You didn't think they were necessary parties.

By Mr. Doar:

We didn't think they were necessary parties, no, Your Honor, we did not. We also recognized that there would be a number of objections to the suit against the State and conceivably a Court could find as Judge Cameron indicates that he is influenced to the effect that the section the 1960 amendment to section c.

By Judge Cox:

Mr. Doar, one of the things that's not easy to reconcile is that you ask specific relief against some of these specific registrars for separate and independent acts that each had nothing to do with the other and——

By Mr. Doar:

(Interrupting) Could I explain that to the Court?

By Judge Cox:

I don't want to distract you.

[fol. 2267] By Mr. Doar:

I appreciate that, I appreciate that comment and as I understand a Three-Judge Court case involving the constitutionality of the statutes once its convened its then obligated to decide all of the issues that are properly presented to it. Now our theory is that in one or more of the counties where there were defendant registrars that in offering our proof/illustrative proof of how the statute would be used that it would be impossible for the Court to reach any other conclusion but that the registrar was discriminating and if the court reached that conclusion then it could enter an injunction against the registrar not to discriminate.

By Judge Brown:

That would give rise then to 1971 voter registrar referee situations it could.

By Mr. Doar:

It could but it not necessarily would but our theory was based on those cases that say where a Three-Judge Court is convened they should decide all the issues, not just the constitutional issues.

By Judge Cameron:

You have answered the question I have asked you. I wanted to get your contentions but I want to get this further one. Do you now contend that leaving out the State of Mississippi you could sue County A Registrar, County B [fol. 2268] and County C and County D all in one suit?

By Mr. Doar:

Yes.

By Judge Cameron:

I thought you had to state a joint claim against each of them, registration is by county.

By Mr. Doar:

But the claim is they are using the state statutes, they are using the unconstitutional state statutes.

By Judge Cox:

But they are not in anywise related to each other and there is no concerted action, they just simply used the same statute.

By Mr. Doar:

That's right.

By Judge Cox:

And different individuals and different counties under different circumstances at different times do different things or don't do different things yet you tie them together.

By Mr. Doar:

Because we are challenging, we are asking the Court to determine the constitutionality of the statute, not what they do, but that the statutes are unconstitutional no matter what they do.

[fol. 2269] By Judge Cox:

That's the reason it looks like its a little bit cloudy to even have them here if you are making that contention. You say it doesn't but you do something else.

By Mr. Doar:

Well, I don't understand what the Court, what do I do?

By Judge Cox:

By making them parties and suing them here as if it were a one judge matter you have got six one judge cases joined into a case where you say that the only thing you are trying to do is attack the constitutionality.

By Mr. Doar:

Well, the Court says I am litigating against them as if it was a one judge matter. The only thing we have done to litigate against them as if it were a one judge matter is to answer the interrogatories that were asked us. We haven't offered any proof, we haven't taken any of the Court's time, we haven't done anything.

By Judge Cox:

You are omitting the simple thing that you sued them.

By Mr. Doar:

Certainly I sued them because we felt that we had the right to sue them and join them when we were challenging the constitutionality of the state statutes.

[fol. 2270] By Judge Brown:

Well, aren't there two questions. Number one is joinder and number two is whether a three-judge court is required in attacking the constitutionality of these statutes. I assume the State of Mississippi would not challenge that. Certainly they are not so unconstitutional on their face that it's a matter so frivolous that a single judge could decide it and that must be the theory of it.

By Mr. Doar:

That's right.

By Judge Brown:

Then when you get a question of joinder we treat this as the equivalent of one or more three-judge cases against one or more individual registrars as a live defendant and try it either separately or as a consolidated case for the convenience of the counsel and the court.

By Judge Cameron:

Is there any precedent of the Supreme Court of the United States for joining individual, separate and unrelated parties like this and in order to prove by them that the statute on its face is unconstitutional?

By Mr. Doar:

No.

By Judge Cameron:

Is there any Court of Appeals decision that holds that?

[fol. 2271] By Mr. Doar: }

No, not that I know of.

By Judge Cameron:

You are blazing a new trail on this?

By Judge Brown:

Well, the Federal Rules they seem to handle it.

By Mr. Doar:

But the Federal Rules, I think the Federal Rules authorize it. I don't regard it as blazing a new trail in a suit the constitutionality of state law to join six registrars in the state as defendants and give them an opportunity to show that the state statute is constitutional or defending it.

By Judge Cameron:

Of course what you want their evidence for use against the State of Mississippi and its statute, I guess you could go on and take depositions of the other 76 without suing them couldn't you?

By Mr. Doar:

That's right.

By Judge Brown:

Well, let me ask you this we get down to that point. Now these notices that you gave included both defendant registrars and non-party registrars. did it not?

By Mr. Doar:

Not the notices, Your Honor, because we had prior to [fol. 2272] that we had approached defense counsel with respect to party registrars and we had reached a tentative agreement on that subject to this motion that we argued and when the motion was argued that went out but the fact is that if we hadn't had the agreement we would have had notices as to party registrars as well.

By Judge Brown:

Well, then specifically the notices that were suspended when Judge Cameron came on the Court with us are non-party registrars.

By Mr. Doar:

That's right.

By Judge Brown:

So then you do not have to have them in as a party to get the evidence that you think is relevant and we have to decide on whether its admissible at all.

By Mr. Doar:

No, we don't think we have to have them to take their depositions.

By Judge Cameron:

Now you have answered question one and two. I understand you now. Do you care to go any further on three; that is the right to sue the State. Does the Georgia case that Judge Davis decided and left the bench when he got bumped on the Raines case does that hold that you can sue a state [fol. 2273] in an action like this?

By Mr. Doar:

I don't believe it does.

By Judge Cameron:

And Alabama doesn't hold it because Alabama withholds it says the statute says you can sue the state and that's the only thing you all are fussing about so go on and sue the state and come back up here and we will tell you whether you have a constitutional right to sue the state. I am familiar with that one.

By Mr. Doar:

Well, I recognize that's one way to read that decision of the Supreme Court but I think the decision of the Supreme Court could also be read as saying now that the now that the uh statute authorizes suit against the state there is no need to discuss these other things and the case is going back and the state can raise the other constitutional issues if it wants but I don't think they were talking about raising the constitutional issue of the United States suing the state or about or the statutory issue of whether or not the statute said that the United States could sue a state.

By Judge Cameron:

Well, is there any congressional history of that statute which militates for your or against you that you know of, statute that gives the right specific right to join the state [fol. 2274] as a defendant?

By Mr. Doar:

As to what purpose of the statute.

By Judge Cameron:

I haven't seen any congressional history and I was mystified because most Government briefs are filled up with congressional history and we got one from Mr. Owen this morning that I didn't get a chance to look at. Do you quote any?

By Mr. Doar:

No, we did not.

By Judge Cameron:

Did you fail to quote it because it was against you or you just didn't find any either way?

By Mr. Doar:

Well, Your Honor, I just can't answer that question because I don't know the answer off hand. Before the argument is through I will get that answer for you if that's satisfactory.

By Judge Cameron:

As I understand you then that you say there may have been the right to sue the state all the time but when Congress came along and specifically gave that right that's all you needed.

By Mr. Doar:

That's right.

By Judge Cameron:

You have got the statute by Congress which is [fol. 2275] presumed to be constitutional.

By Mr. Doar:

That's right, that's our argument.

By Judge Cameron:

Well, do your opponents attack the constitutionality of that statute so construed in this case?

By Mr. Doar:

Yes, they do.

By Judge Cameron:

So that's one question we will have to decide.

By Mr. Doar:

If the Court construes the uh the decision of the Supreme Court in U.S. versus Alabama as not having decided that constitutional issue.

By Judge Cameron:

I don't see how when they say we specifically withhold any decision as to leave it wide open any defense the state may make as to the constitutionality of the statute.

By Mr. Doar:

They don't quite say that, Judge Cameron, but I recognize that the opinion could be read to mean that and be interpreted that way.

By Judge Brown:

It seems to as a part of judicial statesmanship that that's open to a court to say here's a statute, it gives [fol. 2276] jurisdiction, we reverse the case so that it can become a party defend all the way through with an attack on the statute. Now they didn't make that attack did they? What's the significance of the second United States against Alabama?

By Mr. Doar:

Well, the state was a party and injunction granted against the state and went to the Supreme Court and was affirmed the decision and this attack was now made.

By Judge Cameron:

But then it was made that is we specifically side-stepped it in the latest case you have had.

By Mr. Doar:

That's right.

By Judge Brown:

Now on the second U. S. against Alabama was not the injunction against the state? The injunction was against the state wasn't it?

By Mr. Doar:

Yes, it was.

By Judge Brown:

Was not the order which we affirmed one that granted the voting registration status to 65 or so named voters?

By Mr. Doar:

That's right.

[fol. 2277] By Judge Brown:

And the Supreme Court of the United States necessarily approved that in affirming it.

By Mr. Doar:

That's right.

By Judge Brown:

In the petition for cert in that case was any challenge made about the constitutionality of c, 1971 c do you recall?

By Mr. Doar:

No.

By Judge Cameron:

No petition for certiorari was asked was filed in that case.

By Mr. Doar:

There was a petition asked, Your Honor, and the interesting thing about that is that the Supreme Court granted the petition and affirmed.

By Judge Brown:

The same day.

By Judge Cameron:

That's right, three lines. I guess that's right.

By Judge Brown:

Well, that's more than I can get. I just get reversed here recently.

[fol. 2278] By Judge Cameron:

Suppose the State of Missssippi take up these same points. We have all gone all around the mulberry tree but I have raised myself the questions that I asked this gentleman over here even though they were taken with the case before and I did it because it looked like if we could decide it on its face one way or the other, I guess the State thinks we decided it wrong in the Darby case a good many of the same questions were involved and now if we follow the Darby case we would stop all the taking of these depositions and hold it to be irrelevant and personally I just got into it and I saw that record and I thought it it got any bigger we just wouldn't ever look at it and I wanted to stop it if the law required us to stop it and I want you to state, we have taken Brother Doar over forty-five minutes, but you have seen the questions asked and how my mind is running at least. Take about fifteen or twenty minutes to reply to that.

By Judge Cox:

As I understand Mr. Doar that the State of Mississippi is so vital and indispensable and its really the only one he is shooting at if it was held that the State of Mississippi couldn't be sued he would be out the window.

By Mr. Doar:

No, Your Honor, I don't concede that at all. I think the case would go against six registrars and if the Court [fol. 2279] would say you can't go against the six registrars, you can only go ahead against one registrar its these issues are——

By Judge Brown:

And its a Three-Judge Court at that stage.

By Mr. Doar:

Its a Three-Judge case and its got to be decided.

By Judge Cox:

Even if that happened to it.

By Mr. Doar:

Even if that happened to it.

By Judge Cox:

I though that might be a way for me to get out of a lot of work just to make all 82 of them parties that are not already under injunction and get rid of it.

By Mr. Doar:

Well, that might be a way to do it. I think it wouldn't unduly complicate the case, I don't think its necessary, I don't think we are obligated to do it.

By Judge Cameron:

All right, proceed, Mr. Clark.

By Mr. Clark:

May it please the, I don't think that I can give you any more than a surface treatment of our principal contentions and I understand the Court to want only that now because the feature of this argument that these statutes are constitutional on their face and the argument that

nothing that an individual registrar might do in enforcing a statute which is in and of itself a valid statute and not, Judge Brown, as the statutes were in Yickwo and similar cases. Take Gomillion for instance, you dissented in Gomillion. You dissented from that case because you said that no matter how you put this 28 sided figure down the only result and I emphasize the word only the only result was a racially discriminatory result but that is not the case with the Mississippi Statutes, but I would only emphasize to Your Honors that I am not prepared to go into the details of that because other counsel here have done so but I am in the position to give you the contentions of the State contrary to Mr. Doar if that's satisfactory. Is that what Your Honors want at this point?

By Judge Cameron:

Yes, I have looked over all the briefs, Mr. Shands' brief and lot of that is the same stuff we rehashed or we hashed at least in the Darby case and I thought perhaps the Supreme Court had spoken a little clearer since then on things I think they said in the Lassiter case and of course I think that's in favor of the State of Mississippi.

By Mr. Clark:

Judge, I might say that we had prepared a memorandum and I want to apologize for it and tell the Court that we will get a better reproduction, this is a carbon copy and they [fol. 2281] are the first but we can get a mechanical reproduction that will be more readable but this is our outline of what we thought the Court would be most interested in or what would be more helpful to the Court in presentation of this matter this morning and our initial point is just what you have said, Judge Cameron, the jurisdictional question lies at the threshold and it ought to be decided first because its an imposition on the Fifth Circuit, its an imposition on the District Court—

By Judge Brown:

Well, I think, Mr. Clark, in fairness to everybody that when we took it along we followed the suggestion of counsel the last time, I think Mr. Wells got up in Court and said

they were going to argue that matter. During the day the thing changed somewhat and a statement was read on to the record that you did want a right to argue it further and all we did was say at the moment we are going to take it with the case and get along with the discovery matters and up to the time these depositions were suspended that's what everybody followed so I don't believe that the Court had ever ruled expressly on this contention at all.

By Mr. Clark:

That's right, I understand that to be true, Judge Brown.

By Judge Cox:

I think Mr. Wells was sort of trying to act as the [fol. 2282] moderator for these other attorneys and I think he got a little static.

By Judge Brown:

Well, no criticism intended of Mr. Wells. I just wanted everyone to understand that we had not really I don't think we had ever ruled on it.

By Judge Cox:

No, we didn't rule on it.

By Mr. Clark:

That's my, I agree with you fully, Judge Brown.

By Judge Brown:

I have this one practical reaction, I am talking to a practical lawyer now because you are an old friend of ours, we see you quite frequently. You are going to be in this case whether the State of Mississippi is in it or not, you are a friend of all these defendants, the Attorney General is their counsel, we are almost at the end as I see it of the discovery process, the defendants have asked for a lot of information, the government has furnished it to them, now they wanted to take depositions. Why isn't it a practical thing since the State of Mississippi through its Attorney General is going

to be present at any activity that goes on in this case for the balance of the discovery to go forward, get it all in at a time when the State is bound by it if they are properly a party and when the case is submitted then the Court rules [fol. 2283] finally on whether the State ought to be a party. Now one other thing along that line and I am merely saying this so you can kind of address your remarks either now or the rest of your associates during the day if I understand the thesis of Mr. Shands' brief and its a very intriguing one it is that while these are acts of the State so as to constitute state action under the civil rights statute and the Fourteenth Amendment they are not acts of the State in so far as the State itself is responsible, only those agents, sort of spurious agents undertaking to do them are amenable. It seems to me that in that dialectic and that's what it really is that this turns really on the quality of the action which are alleged to constitute either state action or acts of the state. I am sure this doesn't make much sense to anybody who isn't or even to us and it turns on the quality of those acts and you cannot really determine quality from mere allegations and we have gone this far, why don't we get the information and the Court then passes upon it in terms of what the evidence shows, not what the lawyers say the evidence would show. Now those are the things in my mind and I would like for all of you to comment on them whenever its appropriate.

By Judge Cameron:

Let me sort of answer that by asking a question. My own feeling from looking through what the government has put down was this: Well, if they are going into all that they have got to go into the history of the negro, how he got to this [fol. 2284] country; whether he has made his way in this country or not; whether he would take an education or not; whether he wanted to go to school or not. I have got a friend here who came down from Missouri, an old gentleman now who is retired who has written quite a thesis on that for years in the school business he found that the negroes couldn't be made to go to school. Then it would bring up the economic situation of the State of Mississippi. I guess Mr. Doar don't remember that we ever had a war down here; his state has never been defeated but the State of Mississippi was dragged in the dust by just as bad treatment as the nazis

ever gave anybody at all by well meaning people from the north. Are you going to educate anybody? We didn't for a long long time and when we started educating them we started educating white children first because they are the only ones that wanted an education and then you come along through the years I think 85% of every nickle that's been put up for the negroes education has been put up by the white people. The white man has had the negro's burden all the time and of course we have got now the folks in Washington and from Wisconsin and Massachusetts and New Jersey who knew all about it coming down and telling us how to run this thing. Now if the Government is going to put in all of its side I hope the State of Mississippi will find some way to get in the tragic era and all the facts of it and the economic condition of Mississippi and I grew up [fol. 2285] in it, played with little negroes, born in 1890 and they couldn't let the negroes and the white folks schools turn out at the same time because they would get in a fight every day; yet I saw it come up to the time where any white woman could walk on any street in the State of Mississippi without being molested. In other words I want the whole picture, I don't want the Supreme Court to get a one-sided picture of the thing, that's what Mr. Doar is putting up that in 1890 you had so many negroes registered, 1895 you had less, why. I can tell you some reasons why and so can the State of Mississippi so if we are going to allow these depositions to be taken we will be taking depositions I think two or three years from now in this case so I think we ought to decide just whether we are going to try the economic and social life of the white man and the negro in Mississippi we are going to try that from 1890 on let's try all facets of it and since I think that's an impossible task I would like I would rather get slapped down by the Supreme Court now on the face of the statute than to go up with a half built up record. Now that's the reason I was I suspect I started this thing in stopping the depositions but looks to me like an endless task and if uh advancing through what the Government has put in here stuff put in by folks who don't know a thing in the world about it and it can be answered most of it can and I guess the State of Mississippi has got money enough to make the answer but this thing will [fol. 2286] stretch out to ad infinitum it seems to me, but

going back to the question of Mr. Clark my feeling is that in asking questions about the three we have settled in our own minds about, at least we have gotten a good way towards settling them so I would like for you to take whatever you think is proper and the fact is that I think we ought to conclude this argument by 12:30 or 1:00 and I think necessarily we impinge on all the question which we asked you about so you just go ahead and talk.

By Mr. Clark:

• Let me just make a very brief introduction if I may, Your Honor, to the argument the principal argument that will be made by my associate counsel and let me reply to Judge Brown's question by saying sir that I too want to be practical and for this reason it is the combined judgment of all of these imminent attorneys here in which I concur that the most practical thing for the Court to do is to reach the jurisdictional issue first because this will control in our opinion everything in the lawsuit. Mr. Doar says and it was not my conception of the complaint before and I am very glad he has clarified it, he says he is only making attack on the constitutionality of the statute. I join Judge Cox in wondering why the fifth paragraph of the prayer is in there to find against each individual registrar a pattern or practice of racial discrimination by that registrar. I think this a lawsuit [fol. 2287] against each registrar and I think that combined with it is a lawsuit against the State of Mississippi challenging the statutes and I believe it does have improper parties and I think if you took the other side of the thing then you would find that there were 76 necessary parties that had not been joined but I certainly don't recommend that course to the Court. I think the lawsuit if its an attack on the constitutionality of the statutes that the first question for this Court to decide is are these facially constitutional statutes because then you reach the end of the road in a more practical manner. If you say they are Yickwo statutes, if you say they are so vague and so loose that they vest naked arbitrary power in these registrars and they are using them as the supervisor did in San Francisco to deprive people of their rights then you have got an area in which all of this evidence could come in and I do beg to differ with Your Honor in the sense that I don't think that we are at the end

of the road of discovery. I think that the Government might be near the end of the road of discovery but the State of Mississippi has a right under the Federal Rules of Civil Procedure to have the discovery processes commenced by the Government completed before they determine what discovery they are going to ask for.

By Judge Brown:

Well, I don't understand the rule to work that way but I wouldn't I would think that would present no obstacle. You are telling us now uh—

[fol. 2288] By Mr. Clark:

That some additional discovery will be by the State.

By Judge Brown:

I sort of had the feeling in that that was the consensus that day that to the extent that it could practically go forward that you go forward simultaneously and that there was no need for one to complete this and then wait on the other.

By Mr. Clark:

Well, of course, Judge, what I am saying to you sir is we did go ahead within a very short time after that hearing I came into this case so I am able to say first hand there that we pursued it as diligently as we could and propounded these interrogatories to the Government and you can look at the stack of material they furnished us and know that they have been full if not complete and I have no reason now to know that the answers are not complete answers. I know that there is a wealth of material that they have furnished us that is supposedly responsive material to the questions that we have asked about why are you saying that these things are wrong, what are you alleging, what is the basis of your charges and secondly on the question of the State versus State action I don't think so that the quality of the act has anything to do with it. This is Mr. Shands' argument and he will amplify on that. I don't believe that; you could get any worthwhile fact that would assist you in coming

to a legal conclusion no matter how carefully you [fol. 2289] studied the alleged actions that are supposed to be the actions of the State.

By Judge Brown:

I find myself going around when you start talking about its state action but not action against the state.

By Mr. Clark:

Yes sir.

By Judge Brown:

But I understand that plenty of words have been said and give a little substance to each.

By Mr. Clark:

These eleven amendment cases have created a breach in my mind. I think that the Court followed the need power route which I think is a bad way to make judicial decisions. In other words when the eleventh amendment was passed that eleventh amendment got to be a barrier because they said the fourteenth prevents nothing but state action so then they had to climb over the eleventh and they did it by separating these agents from the state and there is just a long line of well documented decisions by every court in this land that there is a distinction and a difference between an agent who acts for a state and the state itself and they are created to get over the eleventh amendment. Mr. Doar's brief handed us last night says well this is not the proposition we have, we don't have to climb the eleventh amendment [fol. 2290] because this is the United States suing so therefore let's just put aside all of these cases that were decided on the necessity of getting around the eleventh amendment but that's no answer to it. I think that the point is that we would make to Your Honors now that a decision on the jurisdictional question there would also eliminate any need for inquiry into the details of what the acts were. We believe its a pure proposition of law and not one of facts so we think practically you can go ahead better by deciding the jurisdictional issue now.

By Judge Brown:

It helps me greatly and it may my Brothers here if we distinguish carefully as we argue this matter between the various kinds of lawsuits that are presented in this one big package. You have the United States of America as the sole plaintiff against two main groups; one is the State of Mississippi, the other are six registrars. Now I am going to back up a little bit and say to the extent that there is a good suit raising a serious question about the constitutionality of a Mississippi voting statute or its Constitution that is brought between the United States and a registrar within this district it seems to me that that poses one kind of a lawsuit that doesn't involve this question of the amenability of the State of Mississippi at all to be sued. It would involve the question of whether the United States has the authority to bring that suit and whether Congress under the statute can [fol. 2291] give it the right to bring that suit but if as to that particular segment of the case your argument is essentially a motion to dismiss on the ground that the statutes are constitutional on their face.

By Judge Cox:

And you further take the position that he couldn't possibly find or introduce any evidence that could possibly show that the statute is unconstitutional regardless of what he discovers.

By Mr. Clark:

That's correct sir, absolutely, exactly sir.

By Judge Brown:

Well, then that prevents two questions. First, the question of law whether the statutes are constitutional on their face and to that extent its sort of like the Darby case I suppose or the Williams case and number two is whether from a procedural standpoint the Court with uncertainties ought to permit discovery to go on even though it is likely or possible that at the end of the rope the court will have to rule either (a) that the statutes are constitutional on their face or (b) the evidence was of no material aid in arriving at that decision.

By Mr. Clark:

Yes sir, and my point from the standpoint of practicality if you take that route, if you take this second route [fol. 2292] which I say is the wrong route, in other words the emphasis I make to you now is the preferred route from the standpoint of your time and from the Fifth Circuit's judicial proceedings and from this Court's proceedings that if you take that route you are imposing a tremendous burden upon this Court and this is a specially constituted court. U. S. versus Phillips and I think all of the decisions indicate that this shouldn't be imposed upon the federal judiciary except in specific instances where the constitutionality of a statute is necessarily involved and we say that there is not a fact that you could find that would have any bearing at all on the legal decision of whether or not the statutory provisions and the constitutional provisions of the State of Mississippi attacked here are or are not square with the Constitution of the United States.

By Judge Brown:

Well, now let's take one simple little thing. The charge was made that under the most recent constitutional amendment of Mississippi and the implementing statutes good moral character is now a element is it, isn't that attacked?

By Mr. Clark:

I am sorry, the constitutional amendment and the statutes implementing the constitutional amendment of the State of Mississippi providing good moral character as a pre-[fol. 2293] requisite to voting in state elections is under attack.

By Judge Brown:

Wouldn't you have to concede as long as you represent the State of Mississippi that you could hardly regard the attack on that as so that you could hardly regard its constitutionality as so doubtful that it wouldn't take a three-judge court to pass upon that serious question. It takes a three-judge court there.

By Mr. Clark:

We are right now correctly in this lawsuit before a three-judge court in so far as somebody in this lawsuit is concerned. I have a great dilemma in my mind as to whether the defendant ought to be the State of Mississippi. I think that we have——

By Judge Brown:

Now you and I are together. We are together now. That's what I was trying to get at. In this court room there are two litigants:

By Mr. Clark:

Yes sir. In some way between the United States Government who is the only plaintiff and some one of these defendants we say that there is a three-judge issue.

By Judge Brown:

All right. Now we are together.

[fol. 2294] By Judge Cameron:

Mr. Clark, would you concede that if you get down to the point where we would say that we eliminate the State of Mississippi as a defendant because we don't have to decide for any reason at all Judge Brown has made the point and I think properly that here are and Mr. Doar too that here are six lawsuits in which the constitutionality of the actions under which these human beings the registrars act is under attack. Now I will ask you two questions about that. Could you bring in Lauderdale County and Clarke County in the same suit?

By Mr. Clark:

This is the Government's position sir but its certainly not ours. Now if I understand your question correctly I don't see how anything that has transpired in Lauderdale County or in Clarke County or in any one of the counties where the six defendants come from can effect a valid law and I don't think sir that Yickwo the ordinance in

Yickwo was valid on its face, I think the court completely and absolutely held it to be unconstitutional on its face and this Yickwo decision comes up time and time again and I think that the opinion in that court that the opinion of the Supreme Court in that case ought to be very carefully read because there is more to me that says that the statute itself on its face was unconstitutional than there is to the contrary. I know that they talked about the way that [fol. 2295] that the statute was administered and if you will read the case you will find that they could have come to the conclusion that there had been racial discrimination either because of application or because of the statute but I think this Court in reading Yickwo and in recalling the numerous decisions since then about similar incidents ought to realize that those are two separate propositions. If you have a valid statute no registrar in the State of Mississippi can outguess the Legislature and repeal or add to some part of that statute and make it unconstitutional. It either is or it isn't and once its in this gray area of being arbitrary or once its in this gray area of having no possible result but a discriminatory result than I think the Court can have the gates opened to go past it and into facts but I don't want to take time from counsel here with me who have prepared in detail these arguments. I was interested in discussing with the Court but if I may—

By Judge Cameron:

I want to ask you one more thing now. Suppose we should say that every one of these that the State was not properly in the Court, we will not decide that question and we will decide only one county and let the Government pick its county then would what has happened since 1890 up to the present time in the State as a whole have probative value in deciding whether the statute was unconstitutional or not?

[fol. 2296] By Mr. Clark:

Do you mean to say, Your Honor, that you would let the lawsuit exist against one registrar, let's take Pike County because that would be one that you had both jurisdiction and venue of because if these others went out

certainly the Court would not maintain would not leave itself with one action against one registrar in the Northern District or against another division outside of the Jackson Division of the Southern District where this suit was brought, but let us say that the Court wound up with a single lawsuit. Do I understand Your Honor to mean that this would still be the Three-Judge issue; this would still mean that no decision on the constitutionality of the statutes on their face would have been made and that the Three-Judges would then be determining whether or not a single in a lawsuit against one single defendant the statutes were constitutional or not.

By Judge Cameron:

I understood the gist of Mr. Doar's argument was that if the constitutionality is raised properly in any suit any suit against any individual registrar then he would want to put in evidence the history of action generally under 244 I guess is the one primarily involved since 1890 as showing that its statute is so I mean the constitutional provision which lends itself so easily to discrimination under it that looking at it on its face plus the historical use that's been [fol. 2297] made of it since the beginning of the white government in Mississippi in 1890 whether that would be relevant evidence in that case.

By Mr. Clark:

No sir, because it would be the contention of whatever defendant was left if the statutes were left in, in other words if you leave the basic issue that creates the need for a Three-Judge Court which is should an injunction issue to stop a man from enforcing a statute on the grounds of its constitutionality 1971 takes care of actions where they say you are using a constitutional statute but you are using it in a discriminatory way just as Your Honor said if you write a law that nobody under 21 years of age could register its susceptible of discriminatory administration and racially discriminatory administration of course which is the key to the whole thing because he could tell a person of once race, yes, I think you are 21, go ahead and register, and he could tell a man with gray hair and a beard and a

stooped back of another race no, I don't think you are 21, so something as simple as that could be misapplied but but that's not an attack on the constitutionality of requiring somebody to be 21 years of age because the Government themselves in rewriting our statutes as they have suggested to Your Honors here would permit us to continue the age requirement in the new voting requirements that they want to establish for the State of Mississippi because they don't [fol. 2298] say that that's arbitrary in itself, but Judge you never can get into facts if the statute is a valid statute on its face, there has got to be a defect that this Court can find on the face of the statute before facts are going to help you make a legal decision.

By Judge Brown:

Well, maybe the Court ought to have the facts as to the circumstances in which the statute applies we get out of this tender of race and civil rights suppose its a statute that undertakes to regulate the cotton business and we have had a number of those in Texas I know and the taxation interstate commerce rates against intrastate commerce transportation rates so is not the Court entitled to be informed factually as to the setting in which this law operates and when I say that I don't care what kind of a how far it goes, I will go with Judge Cameron if we can get Mr. Bowers here that's fine, I want to listen to everything but is there may there not be a proper place for a reviewing court to consider the statute in its actual operating setting not with the idea of getting a Shuttlesworth type of maladministration which is a different thing but merely so the Court knows by the evidence what how the statute works and why in view of how it works it has these defects.

By Mr. Clark:

No sir. Our position is absolutely the contrary, Your Honor. If the statute passes muster, now of course this [fol. 2299] is implicit in what I say obviously when you have a doubtful statute the Court then goes to legislative history but when the statute when you can take the statute just like you could a contract the same thing applies in contract law in the parole evidence rule when the contract has a mean-

ing that this Court can ascertain from the four corners of the instrument you are not going to hear a party come in and say well when I signed it what I really meant to say was that I was only going to pay him \$450.00, I know the contract promises to pay him 500 but I was really thinking about 450 all the time and if you will look at the setting you will see that that's all that I owed him at the time.

By Judge Brown:

Judge Cameron and I we fight sometimes a lonely battle on the Fifth Circuit we are committed to the proposition that when you go to interpret a contract you are entitled to show the factual setting in which the two negotiators were negotiating to give life and meaning to the words they used, not to alter it and that's just what I am trying to say is there a place for that unconstitutional determination of statutes.

By Mr. Clark:

Well, Judge, every time that you get into that area its because you are doubt about what they meant.

[fol. 2300] By Judge Brown:

Oh no, no, that's where the people who don't excuse me for saying don't think clearly always laps back but I don't believe that's so.

By Mr. Clark:

Well, in the field of statutory construction the position of the State of Mississippi is flatly and positively that until you find a defect or an ambiguity or if until you find that the only method of application must of itself result in a discriminatory finding or a discriminatory practice can you go behind a statute and consider motive or intent any more than I can go behind the judicial decision and say well this Judge came from a section of the country which prevented him from understanding this problem or he came from Mississippi, therefore his thoughts were of a particular kind or maybe he isn't married and he doesn't appreciate problems of married people. These things are not permissible

with regard to a court decision and they are not permissible with regard to the decision of a legislative body of a state. Its only when you are in doubt about what they meant to write that you need to go into legislative history at all. Its just like this word deemed; is deemed conclusive or is deemed just prima facia or what did the words of Congress intend to accomplish when you know that they were enacted in the light of the decision where the registrar the decision [fol. 2301] of the Court that it was helpless where Registrars resigned. Was this the only problem that they were attempting to correct or does the language mean more. The reason for going behind at all is because when you read the words of the statute you are in doubt about what they mean.

By Judge Brown:

Now this again the reason we have so much trouble here this thing is just like a room full of feathers. We have got two problems. First, this basic one the remarks you have just made if I understand them correctly you would urge those if this were a suit between the United States of America and the Registrar of Hinds County, that's the local county is it?

By Mr. Clark:

Yes sir, Hinds.

By Judge Brown:

You would make that same argument here that none of this evidence is relevant.

By Mr. Clark:

That's correct sir.

By Judge Brown:

Aren't we though at this stage faced with a problem of whether it is sufficiently possible that it has some relevance that at a pre-trial stage we ought not to undertake to rule on because we can still rule on the trial that the information assembled by discovery is not admissible or if we take it we can exclude it, but then we do it in the light of

[fol. 2302] the final decision. You are asking us in effect here to make a determination that under no circumstance is this factual material which we don't really know what it is yet could have any bearing on it and that it seems to me is almost deciding the case.

By Mr. Clark:

I think Your Honor, now that Mr. Doar has made the announcement that he has I think it does decide the case but until I got to the Court Room this morning I was on the I was of the impression from the relief asked and the allegations made about registrars here, there and you having done discriminatory things that he was bringing six pattern and practice suits and one constitutional law suit all wrapped up in a bundle together. Now he says this is not so, that these people are nominal parties in effect. He says he's he doesn't want to admit them out of court as I understand it but he says that the reason that they are in here is as a part of an attack on an unconstitutional statute and this this created a problem for me because I didn't know the answer but I would say regardless of who you make the issue up between that the first legal consideration of this Court is are the statutes constitutional on their face. Now if you find that there is some ambiguity in the statute then you have made a beginning legal determination. If you find there is no unconstitutionality on the face of the statute I [fol. 2303] say you have made the determination of the lawsuit, you have decided the lawsuit because you are not permitted to go behind but if you decide that they do have some ambiguity then you open up the next question which is the one that's in your mind being uncertain of what they mean I need help, I need additional light on what the legislature and what the congressional what the Constitutional Convention was trying to do, therefore, I will consider what happened in 1890 and what happened in 1891 and 2 and right on down to the present time. After you make this first opening determination of whether these statutes are in and of themselves valid then you could get into a fact issue because as I understand now Mr. Doar says there is no pattern or practice suits pending here, that he is only talking about the way administration has colored the laws.

By Judge Brown:

Of course I do think he would say maybe to your disappointment some months later that if we allow this evidence in and if it does show in fact a pattern or a practice then under the Avocado Lime Growers case or whatever they are this Court has a duty then to go ahead and decide that and I think the last time I said we didn't want to but we have to.

By Mr. Clark:

I think that's maybe the result of that particular case they said that you have got it and you go on and decide all the issues and unlike some what some of the dissenters on [fol. 2304] the Supreme Court said they said—

By Judge Brown:

But I think that the Court could keep it from happening by allowing the evidence in for a very limited purpose and then under a good deal of restriction.

By Mr. Clark:

You sure reach a peculiar result, Judge, because I guess by then you would have held if you hold that the statutes are unconstitutional then what's wrong is so far as the pattern or practice is concerned, its the statutes that cause the difficulty and you are leaving the man without a statute to administer. On the contrary if you hold after you listen to this evidence that the statutes are constitutional then you have got a pattern and practice suit solely and exclusively.

By Judge Brown:

Well, I want to make my own position very clear. I don't think that a Three-Judge Court ought to be a pattern or practice Court. I don't thing I ought to come over here, I ought not have to worry with that, I shouldn't say worry because that's my job, I get paid for it, but that's something left to the District Judges of Mississippi and I think it quite well taken care of and the Court itself could take the initiative to see that this doesn't lapse into a pattern or

practice case even though we allow evidence in for another purpose that would be relevant to it. I don't want to be a [fol. 2305] practice, I might have to appoint referees.

By Judge Cameron:

This Court said in a recent case words that have gone around the world that the Judge acted on what the Judge saw from the witness stand so that's the way this might come down to, we see Mississippi has just been treating the negroes awful bad all this time that we have got to find some way, I mean what we see is determined by how far we go and we have got that question. Anyhow let's stretch ourselves and got out in the hall and take you a smoke. We will recess for five minutes.

(Court recessed at 11:14 for 5 minutes.)

By Mr. Clark:

May it please the Court, Mr. Luckett of Clarksdale has prepared particularly for Your Honors this morning the question of the validity of the literacy test, Section 244, and I think that he has some comments that might be more helpful to the Court than my generalized comments and I would like to ask Mr. Luckett at this to—

By Judge Cameron:

Now let's see, about how long did you talk, about fifteen minutes?

By Mr. Clark:

Judge, I did not keep up with the time.

[fol. 2306] By Judge Cameron:

We did most of that for you and the same is true for Mr. Doar he talked 45 minutes or an hour with our very able assistance and we want to divide this and that's all. We are punching about at all these questions and just trying to get ourselves oriented to where we can have the big argument after you all leave and you just divide it up any way you want to. I will charge you with fifteen minutes, maybe twenty. We have an hour to an hour and a half left.

By Mr. Clark:

I might suggest that Mr. Luckett will take——

By Judge Cameron:

And we want to give Mr. Doar some reply.

By Mr. Clark:

Yes sir. If Mr. Luckett would take ten minutes.

By Judge Cox:

The same as Mr. Doar's argument wouldn't you.

By Judge Cameron:

Well, we got all we wanted to know from Mr. Doar and that's all we want to do with anybody and we don't care about argument or you taking your cases up because the minute you cite a case to me I get down the book, I may read that later, but we can study your briefs after we have gotten from you what your real fundamental contentions are about the matter.

[fol. 2307] By Mr. Clark:

Yes sir. I thought maybe Mr. Luckett could help you some with regard to particular area of 244 of the Constitution on literacy.

By Mr. Luckett:

If the Court please, I won't take but a few minutes because I actually realize that there is no need to argue to this Court about the validity of the literacy test or about the fact that Article 2 of Section 1 of the Constitution of the United States confers upon each state the right to fix the qualifications of voters in that particular state. This Court is familiar with that proposition. Of course its gone through in detail in the Darby case and I don't suppose there is any question about the fact that the State of Mississippi is a state in the union and it does have those faculties that all other states have, the same power of self-government and the same right to fix the qualifications of sub-

jects in the State of Mississippi provided of course that it does not contravene the amendments to the Constitution of the United States. That is our fundamental proposition on that particular thing and of course we go back to the Williams case and to the Lassiter and all those cases which holds those particular rules to be good and valid in so far as these cases are concerned. I would want to go back to this proposition that you raised, Judge Brown, about the taking of depositions before we make a decision, as [fol. 2308] to the constitutionality of the statute. Now we came her under perhaps under misapprehension we had thought that the Government contended that the individual registrars had misapplied or misused the authority given them under the statutes. Now as I understood Mr. Doar to say although he may not have meant it exactly that way but at the presen time they were not charging that any particular registrar had misused the power and authority granted to him by the statutes. We had thought they were in that way trying to get around the Williams case, but in that connection if the Court please he says he wants to take the deposition of some of the registrars of the State of Mississippi so that the Court can see how these particular statutes have been implemented or have been used by the registrars. Now I ask Your Honors to remember that there are 82 counties in the State of Mississippi, 10 of those counties have two judicial districts; in other words there are 92 different places in the State of Mississippi where people go to be registered and that necessitates at least 92 registrars in the State of Mississippi who act under these statutes that are now under attack in this case and to find out that those how those statutes have been used if the Court wants to find out about that we are going to have to go to everyone of those 92 court houses in the State of Mississippi and take the depositions of those particular registrars. We representing the defendants in this case [fol. 2309] certainly can't let Mr. Doar pick out ten of them because I am sure that he would do what I would do if I were on that side he would pick out the ones that he would think would make the State of Mississippi look bad and say here's an illustration of how these statutes are used in the State of Mississippi and so we say if you say we are going to pretermitt the decision on this particular point until we

get all this testimony in there we will just have to say to the Court that we are going to have to go to 92 separate court houses and take the deposition of some of them, at least we will take the deposition of those we think show that these statutes have been followed and have been implemented as they should have been implemented and if that is done its going to take its going to be an a considerable burden on this Court. Now personally when they talk about individual defendants I represent the Registrar in Coahoma County. We live in Clarksdale about 200 miles away from here and so far as I am concerned I don't think my case has anything to do with Mr. Lott's case who represents the man down in Greenwood or any of these other gentlemen, some of them 200 and 300 miles away from where I live. I have never seen their clerk, never talked to them, don't even know the names and the only thing about it is that one happened to be a registrar of a Mississippi County and another a registrar of a Mississippi County and I can't—

[fol. 2310] By Judge Cameron:

You couldn't take those depositions except by consent I believe under the rules.

By Mr. Luckett:

Well, I can't see for the life of me if the Court please how what a registrar down in South Mississippi can how he can effect the attitude or the action taken by the Registrar in Coahoma County. I can't see how what Mr. Jones does in Pascagoula can effect Mr. Smith in Clarksdale and I don't see why that's pertinent in so far as Mr. Smith is concerned and its an incomparable burden and as I say this is an individual clerk and this thing he has got three lawyers sitting around this table and he can't afford to set up all over the State of Mississippi and shouldn't be called upon to do that unless its absolutely necessary and required by the rules of the Court and I heard Mr. Doar say if these were six separate suits that they could bundle them all up together by the federal rules but just what that rule is I don't know, I don't know what rule will say that they can sue the Clerk in Amite County and the Clerk in Coahoma

County in the same lawsuit and bring them down in Jackson, Mississippi. I just don't see any connection between the two suits.

By Judge Brown:

Isn't there a federal rule, I am asking now, generally when I ask a question I know the answer or think I know [fol. 2311] the answer. Isn't there a rule though that does allow the joinder of other of several defendants when common questions of fact or common questions of law are presented so long as the court's given the power to separate or provide for a severance of any particular issue if there is some need for it.

By Mr. Luckett:

Well, I suppose there is such a rule, I am sure Your Honor is more familiar with it than I am but I can't see that would be a combination of fact. I don't see how the facts in Coahoma County effects the facts down in Amite County. We might have in Coahoma County the man, apply the statutes exactly as they should be applied so far as the man down in Amite is concerned he has no connection with him and what he does down there and can't possibly effect the man in Coahoma County. I just can't see any connection between the lawsuit anything to bring the two together under the one tent and so we certainly say that if the State of Mississippi is out of here that we ought to be brought back into our own baliwick and let's try the lawsuit up there if they are going to try to prove just how we have proceeded under these statutes then they should do it in our particular court but in that sort of a case I don't see how the depositions of 81 other clerks would be testimony against Mr. J. W. Smith in Clarksdale, Mississippi, action for which he is not responsible in one way [fol. 2312] way whatsoever but at any rate the point I want to make here without going into this argument about the literacy test because that's been covered in all the cases and can't possibly be in dispute and we think so far as the statute itself is concerned its just as clear as anything can be, its constitutional on its face. After all in Williams it was held in the original 244 that it was constitutional when

it was read and interpret and now we have added the words and write but and write has been held to be constitutional in Trusq and in Ginn and in—unable to understand counsel—so we have these cases which come within the corners of the United States Supreme Court decisions. Of course we do have the addition of good moral character and Mr. Lott will discuss that but that in any number of constitutions of other states in the United States. We have the most absurd requirements in different uh different uh states. I was reading Senator George's speech made in 1896 and at that time the man in Connecticut he couldn't be an elector if he walked scandalously. Now what you mean by walking scandalously I don't know but the people in Connecticut knew about that and that happened as a prerogative as a state in the union to fix that particular qualification so uh we submit if the Court please that not only the statute the constitutional provisions are valid under the United States Supreme Court decision but when we take these implementing statutes about what a man has to [fol. 2313] do when he goes to register and uh his recourses against improper use of the statutes that they can be examined in detail and if given an opportunity to write a brief we can show in detail that in no respect can they be brought under the condemnation we say of Haley versus Shell. Every possible barrier against discrimination is placed in the statutes themselves and we make the additional point if the Court please we have got this constitutional statute, it is constitutional on its face and it comes within the powers granted to us by the United States that no individual registrar can of his own misuse of the statute destroy the constitutionality of that statute. Suppose we have got 70 of them or 72 of them who are doing exactly as they should do and 10 of them misbehaving of course I think that the 10 ought to be stopped and ought to be made to comply with the statute but I can't see or any case that will hold that a clerk can destroy a statute which is constitutionally within the power of the legislature to adopt and with those I will let Mr. Lott take on the good moral character.

By Mr. Clark:

Judge, if I might just interject one thing. Judge Brown asked a question about joinder of parties and I believe that that's Rule 20 that Your Honor has reference to and I think that there are two absolute qualifications it must be an action arising out of the same transaction or occurrence or the same series of transactions or occurrences [fol. 2314] and involve common questions of law or fact and the position that we take before Your Honor is that when Joe Smith comes into the Registrar of Coahoma County to register that's a transaction. Now if this man has a pattern running through all of his registrations whether Joe Smith or John Brown or any one who comes in then this is one problem but he's not controlled and there is no charge of conspiracy here whatsoever, he's not charged to have conspired with the registrar in Pike County to follow a set pattern or practice and unless there's some sort of an implied allegation of conspiracy to defraud, I don't think you can have that, I always understood its got to be clear and convincing.

By Judge Brown:

We have six registrars.

By Mr. Clark:

Are defendants, yes sir, are named defendants.

By Judge Brown:

How many of those are outside of this district?

By Mr. Clark:

Four.

By Judge Brown:

Four.

By Mr. Clark:

No, three outside of the district and four outside of the division and district. Wilkinson and Pike are in this [fol. 2314A] division and district, in other words this Court has both venue and jurisdiction (and I would like to ask Mr. Lott if he would talk about good moral character.

By Mr. Lott:

Please the Court, just briefly the Government is attacking the good moral character provision on the grounds that it vests unlimited discretion in the registrar and second that its vague and indefinite and suggests no standards. Now just briefly, Mississippi amended its constitution so as to provide that in order to become a qualified elector such persons shall be of good moral character and they passed statutes enabling statutes with reference to it and the Government is asking that the constitutional provision and the statutes be declared unconstitutional. Now on the question of vesting unlimited discretion in the registrar I think it should be sufficient just to state briefly what the Mississippi statutes provide about that. They provide in substance for a written application of which a record is made and they provide that if the registrar turns anybody down on account of lack of good moral character she shall endorse that on their application and make a finding stating the facts on which that finding is made. Going further Mississippi statute requires that when a person applies to register, fills in their application their name is published in the paper for two weeks under title applicants for registration once a week for two weeks. Within fourteen days following the [fol. 2315] last publication any qualified elector can challenge the applicant's requirements both as to moral standards and otherwise. Now they challenge them by filing an affidavit in duplicate setting forth the facts on which the challenge is based. The clerk then delivers one of those duplicate affidavits to the applicant who is challenged and the clerk sets a time and date for a hearing on the matter. The applicant who is challenged can be present either by himself, he can have attorneys, he can cross question witnesses and the statute provides that a competent stenographer or court reporter take down the proceedings so that

there is a complete written record of the findings with reference to the good moral character. The statutes then further provide that the applicant if he is rejected for lack of good moral character the Clerk makes a finding of facts as to what that's based on and the applicant can appeal. He can appeal very simple matter to the County Board of Election Commissioners who try the whole matter de novo, he can appear there, if he doesn't like their decision he can go on to our Circuit Court and then to the Supreme Court of Mississippi and of course from there the statute don't, say so but the Supreme Court of the United States. Now there is a complete thing there that the witnesses testified under oath that the clerk hears the evidence, it has everything about due process in it. Now that to me answers without anything else their charge that it vests unlimited [fol. 2316] discretion in the clerk. Clearly it doesn't. Now briefly on their other contention that the term is so vague, indefinite and suggests no standards I would like to mention this to the Court. First of all the Supreme Court of the United States in its own rules that it wrote and all of the Circuit Courts of Appeals except one have similar provisions. Now I won't read all of them but the Supreme Court of the United States in its Rule 5 reads this way "It shall be requisite to the admission of attorneys or counsellors to practice in this Court that they shall have been such for three years past in the highest court in the state, territory, district, commonwealth or possession and that their private and professional character shall appear to be good. Now the Circuits Courts of Appeals I don't have time to list them but they either require good character or good moral character. Now to me I mention that to begin with because its inconceivable to me that the federal judiciary in writing their own rules regards the requirement of good moral character as being so definite that they use it without other standards and that they would then turn and say but when a state legislature does it its so indefinite as to be unconstitutional. Now not only do the Federal Courts do that but federal statutes. Now for instance one of the requirements of naturalization in the federal statute is that the person and still is a person of good moral character. That has not been challenged by anybody as far as I know of being so [fol. 2317] vague and indefinite as to be unconstitutional

and that language is used by Congress. Now the Civil Service Commission of the United States I have here one of their inquiries. Now they have got I don't know how many hundred thousands of employees when they sent out questionnaires when you apply to the Civil Service Commission of Mississippi uh of the United States for a job they send this questionnaire out with this question do you have knowledge of any behavior, activities or associations which tend to show this person as not reliable, trustworthy and of good conduct and character. They use the same thing. Now briefly that term good moral character or good character, of course good character requires more than say a good moral character because moral character is much less stringent requirement than good character but now that term is used in statutes all over the United States and has been for years and the courts have passed on it. Now for instance just briefly the District of Columbia and thirty-seven states require that architects be either of good character or good moral character before they can practice. Thirty-four states have that requirement with reference to attorneys in their statutes. The District of Columbia and thirty-seven states require it with reference to a barber. The District of Columbia and twenty-eight states require it with reference to a civil engineer or surveyor. The District of Columbia and thirty-eight states require it to practice medicine. Thirty-nine states require it of undertakers and [fol. 2318] funeral directors. The District of Columbia and thirty-seven states require it of pharmacists. Thirty-five states and I will skip that one. The District of Columbia and twenty-eight states require it of veterinarians. The District of Columbia and forty-one states require it of certified public accountants.

By Judge Brown:

You know what intrigues me. How did you get all this information? I don't question it but just how did you go about it?

By Mr. Lott:

Had to look up through Attorney General's office, had to look up all the statutes of those different states and we have the statutes number referring to them.

By Judge Cameron:

Have you ever figured out what our commissions mean when they say we shall hold office during good behavior.

By Mr. Lott:

Its pretty hard.

By Judge Cameron:

I'm sort of dubious sometimes.

By Mr. Lott:

Now on the election thing there are four or five states have that with reference to elections.

By Judge Brown:

This kinds of pinpoints a very I think one of the [fol. 2319] serious questions of law in this case on this evidence. Don't you think that or do you think that the timing of this very, this is a recent amendment isn't it, 19 what 62?

By Mr. Lott:

62 I believe.

By Judge Brown:

Right. Now I have heard all this before see in one of these cases or I may be inaccurate when I am trying to give a resume of the history but as I recall and when we were hearing the Lynd case our court whether rightly or wrongly, I am talking now about the Fifth Circuit would hand down an opinion, the Legislature of Mississippi was in session at the time and they would pass a law, we would enter another order, they would pass another law. Now without imputing anybody's motives at all, is not the historical setting in which each one of these changes made have to be of some constitutional significance. In other words I have this sort of approach in Gomillion and all the Supreme Court did as I read Gomillion is they sent it back for a trial and I don't know what's happened to it since. They said its you have

got to look at it, that you couldn't see any basis, I could see nothing except racial discrimination that could have justified or could have brought about that legislation. Now here in the history of Mississippi they have gone along since 1890 with what they regard to be a pretty sound electorate apparently and all of a sudden then in 54 with some decisions [fol. 2320] that they considered to be wrong in race matters they start making changes and then court decisions come out and they make more changes. Now cannot a reviewing court give some consideration to those historic facts as bearing upon the constitutional interpretation and validity of those statutes.

By Mr. Lott:

No sir, I don't think so. It seems to me that it's a question of whether the state has the power to enact the statutes. If it has the power and there is nothing in the Constitution of the United States or its amendments that prohibits it then their motive or intent to me are entirely immaterial.

By Judge Cameron:

That's almost gone down the drain, Mr. Lott. We said that in Darby and we had a whole stock of opinions there but all the courts, I haven't seen the Supreme Court, but our Court constantly has said that that was just done to meet our decision of day before yesterday. You say you couldn't challenge it because of motive if there was power. I hope that we can revive it but it's suspect now.

By Mr. Lott:

Well, Your Honor, if you go into intention or motive then there on the face of the statute is the plain reason for it; that is to do what other states have done in upgrading barbers, veterinarians, to upgrade the electorate to require [fol. 2321] them to be of good moral character. Now that is certainly an admirable—unable to understand counsel—there it is on the face of it, how could you go into any possible motive and say that that's bad. Can you say that the State of Mississippi which is a State of the Union that you have done things in the past which you should not have done, therefore, forevermore you can't enact a statute even

though it's valid and you have the power to do it and Maine could do it and it would be all right but you can't do it because you were bad back there last year and two years ago.

By Judge Cameron:

I will tell you this, Mr. Lott, we struggled through that in the Alabama case over here. Alabama let its Supreme Court fix some requirements and one of them was good moral character and we wrestled up and down with Mr. Doar's argument on there in the Atkins case and we came up with this sort of a statement that if you are going to ask a man questions determining his moral character you have got to have what answers are made in the hearing taken down and made of record so the courts can pass on the validity of them. I would think that's a holding that if you do that we will not knock it out, at least we are writing up our own blueprint, not me but.

By Mr. Lott:

That's exactly what Mississippi has in its statute, its taken down, there's a court reporter, you can go to the [fol. 2322] Election Commission.

By Judge Cameron:

You better move along, Mr. Lott, because we have got only about forty or forty-five minutes more.

By Mr. Lott:

Let me make one statement here. On the definition of it in words and phrases you will find page after page of court decisions on it.

By Judge Brown:

On good character, good moral character?

By Mr. Lott:

Yes sir. Now I will just read one of them from a federal court and say this that the federal courts have generally adopted this as the meaning of it. Good moral character

must be established as a pre-requisite to admission to citizenship and such character results from acts and conduct of an individual and is of such a character as measures up to standards of average citizens of the community in which the alien resides.

By Judge Cox:

That's the Fifth Circuit interpretation under naturalization cases.

By Mr. Lott:

There is a number of them, they generally have about the same wording, those words, there's forty or fifty of [fol. 2323] them or more. That has a well meaning, its nothing vague and indefinite about it, its used all over the United States and we have got every safeguard for due process, therefore, we say its unquestionable that statute is good on its face.

By Judge Brown:

Now what about just in a nutshell these judicial reviews can an indigent is there any provision made so that an indigent can have all of these protections or does he have to finance this litigation with the court reporters and lawyers up through the registrar, the county board and circuit court and so on?

By Mr. Clark:

In view of Griffin versus Illinois, Judge, I don't think we have got a choice about it. I think the Supreme Court of the United States has foreclosed that question. He has got a right to sue whatever legal remedies are available to him whether he is indigent or not and its the question of whether the state has got the duty to furnish him not only with the transcript but with a lawyer.

By Judge Brown:

With a lawyer too.

By Mr. Clark:

Your Honor made reference to Gomillion and may I just say it this way Gomillion was dismissed and the Supreme Court had to say this in its case had to remand it because [fol. 2324] they said now we have got to on a motion to dismiss take the allegations as admitted but they said here that because of the allegations the inescapable human effect of this of laying this plat down on this town was to despoil the rights of negro citizens. That's what they had to find before they could go behind it sir and that's the same thing I contend. Your Honor asked a question first this morning about the capacity of the United States to bring this suit solely under 1971 as I understand Mr. Doar's argument and Mr. Stockett has that point and I would like to ask him to speak just very briefly for five minutes, I understood Your Honors do we have as much as fifteen minutes more so that Mr. Stockett may take five and Mr. Shands take ten in closing.

By Judge Cameron:

You do. I want to try to save the other side about twenty or twenty-five minutes to pretty well equalize it.

By Mr. Clark:

Thank you sir. Mr. Stockett.

By Mr. Stockett:

If it please the Court, the question that I am going to address myself to briefly is the standing of the United States to bring that portion of this suit which challenges the constitutionality of our statutory and constitutional requirements for registration and the argument is going to be in only two parts. The first is that the only standing that the [fol. 2325] United States has in this case is to enjoin a violation of 42 USC Section 1971a. We contend that the United States does not have the broad power to come in and litigate general Fifteenth Amendment rights; that its only statutory standing comes through 1971c which talks about a violation of subsection a or b and thus its restricted. The second part of the argument is that words and I quote

who are otherwise qualified to vote unquote as used in 42 USC Section 1971a restrict courts under 42 USC Section 1971c to hearing actions brought to protect rights of persons otherwise qualified by law to vote and what that is getting to is this, Your Honor, this is a far different case from a case like Davis versus Schnell. An individual has got a right to come into federal court and attack a state statute for voting or registration on the grounds that his Fifteenth Amendment rights are being violated, his general Fifteenth Amendment rights in addition to whatever rights he has under 1971a, but the United States can only come in under 1971a and they have got to meet in order to come in under 1971a they have got to show that somebody has been denied the right to vote who is otherwise qualified to vote.

By Judge Brown:

That's what they are trying to show with those interrogatories. That's what they want to try to prove I presume by these depositions which have now been stalled. They are going to show with six or eight non-party registrars that [fol. 2326] these number of negroes have applied and have been refused; this number of white have applied and have been admitted and that there are no reasons to distinguish between the two. I suppose that's what they are going to try to prove.

By Mr. Stockett:

Your Honor, the point I am trying to get to is simply this, there are two kinds of proof that can be made as I see it in these voting cases. The first is the kind of proof where a man comes in and he correctly fills out the application form but yet he is turned down and the question then arises why was he turned down. Well, if the reason was race or color then the Government has got a right to come in and bring a suit against an individual registrar to redress that grievance. That's one kind of proof where a man came in and applied with all of the state requirements but yet was still turned down, that's one kind of proof, but as I see it that kind of proof would not invalidate the Mississippi statute in this case. The only kind of proof that would invalidate the Mississippi statute is the kind of proof a man came in to

register and he ~~did not fill out the interpretation part, the constitutional interpretation part of the test or he was~~ turned down on account of good moral character or he somehow failed to comply with one of the Mississippi requirements for voting. Now that's the only kind of proof that I believe can invalidate these requirements for voting and the trouble I believe they are faced with a logical impossibility [fol. 2327] because such a person is not otherwise qualified to vote. A person who fails to fill out, who fails to meet the literacy requirement is not otherwise qualified to vote.

By Judge Brown:

But if that is that statutory standard and I say if it is unconstitutional either on its face or in the setting which is established by the evidence and that's the only reason why he's not admitted then is he not otherwise qualified because he ought never have been subjected to this standard.

By Mr. Stockett:

But if the statute is constitutional on its face, Your Honor, then in determining if the statute is constitutional on its face which we contend all of ours are then the standard to be applied in the first place as to what constitutes otherwise qualified to vote has got to encompass all of the Mississippi requirements for registration in the first place.

By Judge Brown:

Well, that's what I am saying they are trying to prove that there are these people, I don't think they had this in mind at the moment when they tried to take these depositions, but by doing so they hope to establish to satisfy that requirement in 1971a; namely, that there are people who are otherwise qualified to vote who are denied the right to vote in Mississippi. Why? Because of unconstitutional statutes. Now that's their case and we have to decide that [fol. 2328] case. Why aren't they a proper party then? Doesn't Congress say they can do it? How can you attack the constitutionality of that? I don't let's keep the State of Mississippi out of this question now. Can't Congress give the United State Government that power?

By Mr. Stockett:

Well, Your Honor, I think not.

By Judge Brown:

Why not?

By Mr. Stockett:

And the reason that goes into another part of the argument which is covered in our memorandum on this point which I did not intend to go into. The reason is that the only basis for 1971a is the Fifteenth Amendment and the only effect of the Fifteenth Amendment the only reach of the Fifteenth Amendment on the state requirement for voting is just to delete or knock out all discriminatory provisions that appear in these state requirements for voting as they said in the Gwenn case which we cite that the only effect the Fifteenth Amendment has on state requirements for voting is if it says all white persons over the age of 21 can vote then the Fifteenth Amendment just deleted that word white and allowed anybody over the age of 21 to vote. That is the full reach and effect of the fifteenth amendment.

By Judge Brown:

Don't you think the Fourteenth Amendment has anything [fol. 2329] to do with voter rights?

By Mr. Stockett:

Sir?

By Judge Brown:

Doesn't the Fourteenth Amendment have anything to do with voter rights? 1971a.

By Mr. Stockett:

I think not. I would say no and its our contention that 1971a is bottomed only—

By Judge Brown:

What do you do with Baker against Carr then held that this was not only was a matter which a federal court could examine into?

By Mr. Stockett:

Sir? Baker versus Carr?

By Judge Brown:

Baker versus Carr on reapportionment, state reapportionment.

By Mr. Stockett:

I believe that was a great deal different question though, Your Honor:

By Judge Brown:

Its a question of power isn't it. In other words the Federal Court has now power to look into this unless its a violation of the Fourteenth Amendment.

[fol. 2330] By Mr. Stockett:

Of course there you had individuals bringing suit to vindicate their right, their individual rights under the Fourteenth Amendment but we——

By Judge Brown:

Can't the United States vindicate those rights if Congress has said they shall why not. That's what I don't.

By Mr. Stockett:

It cannot, the United States can vindicate a Fifteenth Amendment right to this extent as I indicated if there's discriminatory conduct or alleged discriminatory conduct on the part of any registrar they can bring a suit against him to have it enjoined, that's what the Raines case said and they can vindicate the Fifteenth Amendment, proper Fifteenth Amendment right.

By Judge Brown:

Your argument seems to convince me. Prove positively that there is need for further testimony because they have to perhaps to satisfy this element of 1971.

By Mr. Stockett:

Your Honor, that wasn't the intent of my argument.

By Judge Brown:

I know it wasn't.

By Judge Cox:

Mr. Stockett, you could admit if its all that simple [fol. 2331] that some of these colored people have been denied registration because they didn't pass these tests couldn't you?

By Mr. Stockett:

Sir?

By Judge Cox:

If its all that simple the State could admit that some of these people were denied registration because some of the tests under these statutes couldn't you? I mean if its quite that simple as indicated.

By Mr. Stockett:

That would be that's the case we think, Your Honor, in a lot of cases.

By Judge Cox:

If its all that simple why can't there be a stipulation to the effect that some colored people have been denied registration because they didn't pass these tests under 244 and 241a if that's all there is to this.

By Mr. Stockett:

I don't have the power to make any stipulations, Your Honor. I would prefer for Mr. Clark to make that kind of uh-I think it may have happened.

By Judge Cox:

I am just wondering if you are not oversimplifying.

By Mr. Clark:

Your Honors please, Mr. Shands on the question of [fol. 2332] the State and State action which the Court has touched on before I believe.

By Judge Brown:

That's what I thought we were coming to hear today really and now he get's to talk last.

By Mr. Shands:

Beg your pardon.

By Judge Brown:

That's what I thought we were going to hear mostly today but I am glad to hear it finally from you.

By Mr. Shands:

If the Court please, in answer to Justice Brown's one of his questions why isn't the state have to be joined. A very clear answer to that is that it is not charged here, its not contended here that the State has ever committed any original act. The only way that they seek to get to the State is through a registrar. That's the last sentence of 1971 subsection c so unless the registrar has committed a discrimination you don't get a right to join the state under the 1960 civil rights act because it is the statute conceives on its fact that the State didn't do it and why does it do that because it says that when any official commits an act which violates subsection a then you may join the state and so forth so it is seeking to make an unconstitutional illegal act of the registrar the acts of the State itself as such and here is

[fol. 2333] the reason why you can't do that. Since the inception of the Constitution there has been both a difference and a distinction between the United States, the United States Government and a state and its government. If that were not so then every federal officer or agent would be the United States and that's not so. Unless that were so every state officer or agent would be the State of Mississippi and that's not so. Unless that were so then who would make the law in this nation, federal wise every state I mean every federal officer and Congress would be pitched out of the window. Bringing it to this case an illegal unlawful act of a registrar has to first be committed before you even get in the same township and range in the state. Now then—

By Judge Brown:

Now I accept that.

By Mr. Shands:

Can you say that the laws of Mississippi vary or are made or are unmade by each and every officer in this State instead of by the Legislature.

By Judge Brown:

Let me accept that statement and ask you this question. If a registrar doing precisely what the statute tells him to do is doing a wrong because the statute is unconstitutional—

[fol. 2334] By Mr. Shands:

It doesn't get to the State at all.

By Judge Brown:

He's amenable isn't he?

By Mr. Shands:

He is, but not the State.

By Judge Brown:

All right and if they show then that there are persons who were otherwise qualified to vote but for this unconstitutional statute then they bring themselves within the reach of 971a do they not so far as plaintiff is concerned? Let's not talk about the defendant yet.

By Mr. Shands:

No sir, for this reason—

By Judge Brown:

Why not?

By Mr. Shands:

You are assuming that an unconstitutional constitutional provision of the State of Mississippi or a state unconstitutional statute of Mississippi is the law but its not and it hasn't been the law of any state or of the federal government since the first Wednesday in March, 1893, the effective date of the Constitution. It was first announced in 1819.

[fol. 2335] By Judge Brown:

What I don't follow in all of this dialectic and that's all it is, its just plain fiction.

By Mr. Shands:

Beg your pardon.

By Judge Brown:

This is fiction, these are fictions and I think they serve a good purpose, they serve a good purpose, I am not going to destroy a fiction, I have destroyed a lot of other things but not that. If a man who is an agent of the State, a registrar, acts in excess of his statutory power the law regards that he is no longer an agent of the state, he has exceeded his authority. Isn't that about it.

By Mr. Shands:

There is a lot more than that to it but we'll take it, I'll go with you on—(Mr. Shands and Judge Brown talking at same time and unable to understand either.)

By Judge Brown:

He no longer has any legal justification for what he is doing. Now if what he is doing is to try to follow a statute which lacks fundamental validity because its unconstitutional why isn't his action equally in excess of his power.

By Mr. Shands:

Why, Your Honor, if the statute under which he purports to act is unconstitutional he has got no power.

[fol. 2336] By Judge Brown:

Of course that's what Ex Parte Young involved really.

By Mr. Shands:

That goes back to McCullough, Virginia, Texas versus White, Young, Poindexter versus—(Judge Brown and Mr. Shands both talking at same time and unable to understand either.)

By Judge Brown:

Didn't Ex Parte Young it was a challenge between some stockholders and an attorney general—

By Mr. Shands:

Yes sir.

By Judge Brown:

On the ground that a statute of North or South Dakota was unconstitutional.

By Mr. Shands:

Yes sir.

By Judge Brown:

All right now we have a case here of a plaintiff United States of America, against the Registrar of Hinds County saying that you are applying an unconstitutional statute. Now what's the difference between this and Ex Parte Young?

By Mr. Shands:

Why a great deal different if you are seeking to hold the State and I suspect maybe the Court may have lurking in its [fol. 2337] mind the Eleventh Amendment but the Eleventh Amendment doesn't touch as Your Honor as one of the participants in several of the Louisiana cases have properly held that the Eleventh Amendment does not come into play or touch the case topside or bottom until what; until first you decide that the suit is one against the state and then the bar and only then of the Eleventh Amendment rises, but the trouble with the position that Your Honor appears to be leading to is here first that the meaning of the Fourteenth and Fifteenth Amendments were both fixed and determined years ago and Ex Parte Virginia says and it can't be a fiction, Your Honor, otherwise I could repeal every law applicable to me that the legislature passed. It says Ex Parte Virginia you have followed it through and including St. Helena Parish from the Fifth Circuit that the Fourteenth and Fifteenth Amendment act and apply solely and alone to the persons who perform the unconstitutional or illegal act. There is no equivocation about that whatever and it also says that it cannot does not apply to the state. Now that it written on the page and the rationalization and the destruction of any conception that that is merely a fiction is bulwarked from McCullough versus Maryland today and I say as to counsel for the Government there is not and cannot be found and as long as the Constitution stands it will never be found a case which holds (1) that an unconstitutional provision of a state constitution is a law of the state; (2) that no statute of any state that violates the [fol. 2338] Fourteenth or Fifteenth Amendment is a law of the state; (3) that any act of any registrar or other officer which is performed under an unconstitutional act is not and cannot become the act of the state; (4) that no act of any registrar improperly and unconstitutionally applying

the provision of a valid statute is not and cannot ever become the act of the state. Now on that basis 601 must be he is bound to be and has to be invalid and unconstitutional or else the Fifth Circuit is going to be put in the position of going back and starting with their most recent case where you have applied that rule and go back beyond Pea versus Cox. Now this is no fiction.

By Judge Brown:

Well, why don't we do it as it ought to be done. The only difference between me and so many other judges I'm conscious that what I'm that some of the things we do are fiction. I think the fictions serve a real purpose in the law and we are, we just live with them all the time. They have the Eleventh Amendment which Mr. Clark makes the argument Ex Parte Young is a rule of necessity, it might have been a bad rule, but it gets over the Eleventh Amendment by taking the fiction that these people aren't even executing an act, they aren't even officers, because they are acting under an unconstitutional statute so it never was. Well, now that's silly really. It serves a purpose, it allows a court to [fol. 2339] test the constitutional validity of that statute and that's good.

By Mr. Shands:

No sir, I differ with the court in—

By Judge Brown:

Now let's carry it one step further. This same action when done by the state officer who's doing an act that doesn't exist because it never was is nevertheless held by an equally long line of cases to be state action if the Fourteenth Amendment is involved. Now both of them can't be seen but they are and they are because each serves a purpose. Now why can't we approach this case in exactly the same way when the Eleventh Amendment is not present because the contestants are the United States on one side and the State of Mississippi or its agents on another. The question is is this law a constitutional one, has Congress empowered the United States to be a litigant and we don't have to get it

back in terms of what the rights of a private party would be against these people. Now why can't we approach it that way.

By Mr. Shands:

Very easy response to that, Your Honor, and the first reason is that an act of Congress can neither add to, take from or change the meaning of the section of the Constitution. That's the first reason. The second reason is that the difference between state action and acts of a state existing as set out in detail in this too long brief that I prepared [fol. 2340] existed long before the Fourteenth and Fifteenth and the Eleventh Amendment were ever heard of.

By Judge Brown:

Well, we never had the need for uh for uh.

By Mr. Shands:

But, Your Honor, for 144 years that has been the law of this nation and if this Court should seek to change that then what this Court would be doing would say Mr. Legislature of Mississippi, Texas, New York, Florida, Indiana, California it don't make any difference what law you pass because as these officers act so do they change what you said. The same thing will apply to the Federal Government. You will have overruled everything from *Larsen versus Domestic Corporations* backwards and forward.

By Judge Brown:

That's not the question we are talking about now. The question is not now whether evidence is admissible to show how this statute operates or what it means. The question is the standing of parties to sue, the right of the Government to sue and the standing and the right of the amenability of the State to be sued and it doesn't depend upon the personal action of the state agents, its the nature of government itself and whether Congress has it within its power to say that the national courts are open for the national government to directly challenge the constitutionality of a state [fol. 2341] statute which denies in the judgment of Congress

a federally guaranteed constitutional right. Now no court has yet ruled that that's beyond the power of Congress. You have written a very persuasive brief, its a nice structure, but you have got to take the next step.

By Mr. Shands:

No sir, because I don't walk down the same road the court Your Honor is traveling. I am not traveling that path at all.

By Judge Brown:

Oh you are not.

By Mr. Shands:

No sir, Your Honor. The path that I am trodding is that the State of Mississippi cannot have a cause of action created against it by virtue of an unconstitutional statute, constitutional provision or act of any officer. Now that's the path that our contention is and you concede the statute concedes the state didn't do it originally.

By Judge Brown:

Because the statute doesn't exist.

By Mr. Shands:

No sir. I am talking about your federal acts now. Your federal act concedes that the state didn't do this originally and why does it do that because it says it shall be deemed if a registrar does so and so. Now pretty much of that fiction theory that the Court was talking about was case aside [fol. 2342] in Nixon versus Carney and in several and in Ex Parte Young I believe where there was an effort made to put a representation of the state on an agency basis. Your Honor remembers those provisions and the Court says you can't put this on an agency basis and if you did you would be met at the threshold with two things. One, if its a crime there can be no agency about a criminal act; might be joint principals but you will never be an agency; secondly, if he is misapplying a valid statute he is exceeding

his authority and everybody knows it unless you cast aside and repeal the fact that everybody is charged with knowledge of the law so you can't put it on agency, it arose before the Fourteenth and Fifteenth Amendments came about. The court who announced those basis was sitting as the table of the Court will show and as I reiterate in the brief they knew what the constitution was and, Your Honor, as a parting word here you cannot have an indestructible union of indestructible states if you permit an officer of the federal government or of the state government to by unconstitutional and illegal acts cast my ability upon either the state or the federal government.

By Judge Brown:

What's going to be indestructible about a union that's made up of states each of whom are dedicated to the enforcement of the federal constitution which has as Article Three the federal judiciary that tests the validity of a state statute, rule or practice in a federal court in an action [fol. 2343] brought against the state. Now what's wrong about that. I mean what's destructive about that?

By Mr. Shands:

Here's what's wrong. You are jumping the basic hurdle of the republican government of this nation.

By Judge Brown:

You mean that a state cannot be brought into the national court.

By Mr. Shands:

No sir, here's the hurdle you are jumping. You are saying to me why shouldn't the United States Government and a state be subjected to having its liability vel non or the quantum of that liability determined by a federal court and you are saying Dugas Shands as long as a federal court is the guardian of the United States and of the state we won't let you get hurt but you are going to have to be liable and leave it to us to say whether or not. Now, Your Honor, with all deference that does not square with any principle upon which this is based.

By Judge Brown:

What do you think about the tidelands cases?

By Mr. Shands:

Beg you pardon.

By Judge Brown:

What do you think about the tidelands cases?

[fol: 2344] By Mr. Shands:

Entirely different question.

By Judge Brown:

There they——

By Mr. Shands:

U.S. versus Texas. Let's take San Bucinto. You took care the tideland case, the tideland case was a boundary dispute who owned what. Your Honor, that doesn't come within the same township and range of this. The questions here are two. One, can a state violate the Fourteenth Amendment. No. Can a violation be charged to it. No. Same thing as to the Fifteenth Amendment. Why is the Fourteenth and Fifteenth Amendment the same, Because Judge Wallace, I mean Judge Johnson In Re Wallace so said and the Fifth Circuit so affirmed in 266 or 7 when you affirmed In Re Wallace and adopted that. Every other court has adopted that. As to legislative history some is shown in this brief and it is legislative history. Have I used my time, Your Honor?

By Judge Cameron:

Well, we, I don't know. How much time do you want, Mr. Doar, in response?

By Mr. Doar:

Your Honor, about I would like about three or four minutes and Mr. Owen may be about the same. Just very brief, we don't have much in response.

[fol. 2345] By Judge Cameron:

Well, we haven't got any fixed time limitation but the strength of one of the judges, that's all, and we will go along as long as anybody feels like he has got something very important to say: You can take five minutes more, Mr. Shands.

By Mr. Shands:

I don't think I will need that, Your Honor. Legislative history that the Presiding Justice asked about there is just to use a slang term oodles of it.

By Judge Brown:

Its what?

By Mr. Shands:

A lot of it; Your Honor, and it is uh what I have put in this brief was taken from the Government's brief in U.S. versus Dozier and it is the statement of Mr. McCullough on the floor of the Senate, I mean of the House when he was explaining what 601b did as to what would be the parties defendant and its so terse it answers Judge Brown's question so completely if he is desirous to indulge in legislative history and it is Mr. McCullough and note if the Court please the warning that Mr. McCullough threw out. Let me ask him what it meant, who is going to be the party defendant. Let me say the way the gentleman has presented the matter is accurate. I would try to paraphrase that but I can't measure McCullough's words but I want to say this and I [fol. 2346] want you to note the significance of what I am going to say, now he is talking on the floor of Congress, when the attorney general brings that case into the federal court with all the authority and solemnity with which a case in a federal court is brought there is a naming of defendants and they are state officials. In that suit the Attorney General of the United States must prove to the satisfaction of the federal court that there is a pattern or practice in the political subdivision in question which denies the people otherwise qualified the right to vote by reason of race or color so there has been a day in court of the person who

could contravert by evidence that which is stated in the complaint. Why the Attorney General. I have never seen legislative history as definite and certain. If the Court wants to avoid the constitutional question the true intent of the statute in my judgment is that you do not join the state, it is not contemplated to be a party and its not even provided for. There was only one case and that was the case of Pea versus Cox which was where the State of Mississippi in a voter suit I mean the registrar in a voter suit out of Forrest County plead that it was a suit against the state when they charged him with discrimination. The Fifth Circuit said no its not, it was not because the registrar was misrepresenting the state, not representing the state. Thank you, gentlemen.

By Judge Cox:

You are saying Section 1971 is just unconstitutional then because some things you don't seem to have made any [fol. 2347] response to that they are talking about acting under color of office, he didn't have a valid statute or maybe no statute, say something about officials acting under color of office, de facto officials so really the substance of your argument is that this case 1971 is unconstitutional and void.

By Mr. Shands:

The last sentence of subsection c which seeks to make an illegal unconstitutional act of an officer the act or the state and charge the state in effect as principal.

By Judge Cox:

Is unconstitutional.

By Mr. Shands:

Yes sir, thoroughly so.

By Judge Cox:

You have some authorities on that?

By Mr. Shands:

There are 63 cases about in this brief.

By Judge Cox:

You oughtn't to have cited so many.

By Mr. Shands:

Well, Your Honor, I thought maybe if one might not suit the Court the other one would.

By Judge Cox:

Might read one and not the rest of them.

[fol. 2348] By Mr. Shands:

Well, I think any one of them will answer the question satisfactorily in the minds of the Court. Thank you, gentlemen.

By Mr. Clark:

May it please the Court; just in closing this reminder that we are dealing here with the authority asserted by the United States to come in and invoke the jurisdiction of this Court under this Section 1971 which says that whenever any person has engaged in unconstitutional action and this of course does not mean a sovereign, this means the registrar, then it continues and says that whenever in this proceeding any official of the state shall have committed any act or practice constituting a deprivation this act or practice shall be deemed to be the act of the state. That simple deeming of the official act of the registrar's act as the act of the state is the grounds of unconstitutionality that we allege is in 1971 but in this argument I don't I hope the Court won't overlook that basically we are saying that this suit is wrongly brought against the State of Mississippi whether or not you consider 1971 unconstitutional because the whole fabric of our government comprehends that if you are going to test the validity or the invalidity rather of a state statute you sue the officer who is getting ready to hurt you under that statute.

By Judge Brown:

Well, now you do that why, because of the Eleventh [fol. 2349] Amendment ordinarily.

By Mr. Clark:

Dell, not necessarily that sir. 2281 or rather 2284 which provides the procedure for Three-Judge Courts says this if the action involves the enforcement, operation or execution of state statutes at least five days notice of a hearing should be given to the Governor and the Attorney General of the state. They don't contemplate the state ever being a party.

By Judge Brown:

Which of course is some more on the evidence that the law for its own purposes has contrived this nice little theory. Why would a federal rule or a statute require notice to a governor to come in and defend a non-existent statute or to justify a non-existent practice. Now the reason notice is required is we know for a fact that this is the state whether its race or whatever it is and this statute is a statute of the state and it either its existence depends upon the outcome of the litigation.

By Mr. Clark:

Judge, I wouldn't concede that. I would say that there are two separate bundles, convenient legal fictions or whatever you want to call them. There is the state which must necessarily remain a perfect being if its going to remain one of the entities that composes the union, one of the entities that retains the power in itself to amend the Constitution of [fol. 2350] the United States to dispose of the Federal Judiciary. This is the power that the states have over the very Bench that Your Honors are sitting on. These are powerful sovereigns that compose this sovereign union but the entire purpose of notifying the governor and the attorney general in my conception is that there will never be an instance when something as solemn as declaring a law of a state is going to be affected that the responsible officials of the government of the state which is a separate package

of people won't have notice of it. That's the only thing I think that it means. I don't think they are trying to get notice to this theoretically perfect being of a state. I think that they are telling this court in this very action there is not a bit of need in the world if you want to say that these statutes are unconstitutional you could have sued any one of the six registrars or any one of the other 76 and said just like Mr. Stockett said not that you have discriminated against me but you have put down on my form you marked on my form disqualified because I put something on there that the law required me to put down and the law is wrong, the law is unconstitutional, it violates my Fifteenth Amendment rights. 1971 says to the Federal Government you can come into the federal courts anytime a registrar discriminates and you can sue that registrar and then we get into the troublesome area of allowing his act to also be deemed the act of the state but we don't have to resolve that conflicting [fol. 2351] question here. The State of Mississippi is not a proper party to this litigation because of a long line of cases holding that the state can do no wrong, that the state is not an actor in this situation, that the problem is created not because what the state did or didn't do but because of what the registrar did or didn't do. This is the thing that starts 1971 moving a wrongful act by a registrar. Then it permits joinder of a state. Once the action is in being the state can be added but this is not, the state is not a necessary party and I would urge the Court to dismiss the State and dismiss the State Election Commission from this lawsuit so as to avoid any calling on this court to determine constitutionality of the statute. I think we ought to try these six—

By Judge Brown:

This is the first time anybody has mentioned the State Election Commission. Why aren't they a proper party? Don't they have a function under the statutory scheme?

By Mr. Clark:

Judge, the State Election Commission has only the function of discharging the commands of the statute and this is a motion to dismiss, we take every allegation of the com-

plaint and admit it and there is not a single charge of wrongdoing to the State Election Commission. There are in here because they are mechanically in the statutory scheme and that's all.

By Judge Brown:

They provide that questionnaire don't they?

[fol. 2352] By Mr. Clark:

That's right. There is not a charge in here that what they have done in providing the questionnaire was in anywise wrongful or was in anywise a departure from the statute itself. Now they have charged the registrars with discrimination over and above and beyond their statutory authority but that is not true as to the Election Commission.

By Judge Brown:

But don't they attack isn't it fair to say that construed as the complaint must be, at this stage they charge that the statute in requiring this questionnaire type of application blank does is unconstitutional in several respects?

By Mr. Clark:

Well, Judge, this couldn't be right because we are met with the impact of Atkins immediately. These very forms that this Election Commission prescribes fill in the problem that existed to the Fifth Circuit's ideas in Atkins.

By Judge Brown:

But this is the merits of the case, see we haven't gotten that far yet.

By Mr. Clark:

No sir, what I am talking about that these people are mechanics and that's all and to take the State of Mississippi out necessarily removes the State Election Commission. They are a party against whom no worthwhile relief what- [fol. 2353] soever could be granted.

By Judge Brown:

Why wouldn't it be. I can follow your argument on the State of Mississippi but I have difficulty in seeing why if they have important even though mechanical obligations to perform under the statutory scheme why the Election Commission, the Governor, the Attorney General and whoever else it is aren't as amenable as are the registrars themselves. They are individuals who are doing these things in the name of the State which under fiction they don't really amount to acts of the State. Now why aren't they parties?

By Mr. Clark:

The first reason is that they are charged with no wrong doing. The second reason is no relief is sought against them and actually they are just its completely immaterial that they be parties to the lawsuit..

By Judge Brown:

Yes, but here for example, this is why I think there is a lot of basis for an omnibus suit of this kind. I have got two reasons for that. First, I think Judge Cox is certified to sit anywhere in this State I am sure. Judge Cameron and I are here because we are Circuit Judges and we can sit anywhere in Mississippi and its not a jury case and if there are ten cases we can hear ten as well as we can hear one at one time but uh.

[fol. 2354] By Judge Cameron:

You may be pointed that way but I am not. I can't sit as a District Judge in this State except at the discretion of the Chief Judge.

By Judge Brown:

Well, I have been appointed here. I know the statute says not less than one Circuit Judge. Now here if you have just one registrar Hinds County with the United States Government assuming I will concede now these people are going to obey the law a judgement rendered in this case between the Government and Hinds County along has no immediate

bearing upon the Election Commission with respect to continued use of those application blanks in the balance of Mississippi.

By Mr. Clark:

If the basis of course the only reason that you would be sitting as a Three-Judge Court would be an attack on constitutionality you could do you could make that attack against the registrar. Now I have some serious doubts and please don't understand that I am arguing this to you, I have serious doubts as to whether the United States Government can attack the constitutionality of a statute or whether 1971 really means what it says and then if its a pattern or practice of discrimination, but assuming only for the sake of argument this could be done Your Honors would be here for the purpose of testing constitutionality of the [fol. 2355] State Constitution and laws and if you determined at the end of that contest if this Three-Judge Court determined that these laws are wrong and you enjoined the Registrar in Hinds County you have on the basis that the laws are unconstitutional then you have wiped them out for the Election Commission and for every other registrar in every other county in the state and all you have got to do is to add to your injunction in this one lawsuit, you don't have to get into other lawsuits if after that lawsuit you determine these statutes don't square with the constitution they are nothing, they are void.

By Judge Brown:

That's the way it would ordinarily work but isn't it part of our system that the injunction is as between the parties to that case and the Governor and the Election Commission if not parties if not found by it they have to give deference to it but as long as they are not parties aren't they entitled to litigate it when and where they can. That's a position I seemed to have heard you make on other occasions and I think a pretty good legal position.

By Mr. Clark:

There is no doubt about the fact that an injunction issued between private parties affecting their private property rights does not bind non-parties who are not acting in concert or participation with them but of course you are permitted by the rules and its recognized under the decisions [fol. 2356] that an injunction extends beyond the parties to the extent of anybody that's acting in concert and participation with these people and I don't see how in the world that an injunction in one lawsuit that based upon unconstitutionality of state constitution provisions and statutes would not dispose of the question and if it didn't do it in one lawsuit you wouldn't have to file 82 others, you could simply join the other parties in that same litigation.

By Judge Brown:

One non-controversial question that I want to ask you. Let's assume you are right on the State of Mississippi as a defendant and we have got one registrar, Hinds County, what's left of this lawsuit and what are we going to do with it and what should we do on all this pre-trial where should we stop?

By Mr. Clark:

Judge, based upon Mr. Doar's position that he takes here and that the Government is assuming now in this case that the thrust of the lawsuit is unconstitutionality of these statutes let's take Pike County or Wilkinson since they are ones that would qualify all of the jurisdictional and venue prerequisites we would still litigate with him the authority of the United States to test constitutionality as opposed to pattern and practice because we say Congress has never given them any authority to go outside of that field and [fol. 2357] time and time again the Justice Department every agency of the Government has been to Congress to beg for rights to beg to litigate rights of private individuals so they don't have it and they don't think that they have it except as you find it given to them in 1971 so we would litigate that question with them but if that question were determined adversely to us and this Three-Judge Court said yes we do find statutory authority for them to test the

constitutionality of Mississippi law the contest would be on and the fur would be flying right there at that point. Of course you get into these subsidiary questions that we say here that first constitutional contest has got to be are they valid on their face. Then you get into a question if they are ambiguous, if they are arbitrary, if they meet any of the other criteria, if the only human, the inescapable human effect of the applications would be discrimination, racial discrimination prevented by the Constitution then you go back and find out why and you go back into application but, Judge, can you have a law or a constitutional provision in the State of Mississippi that is constitutional in Hinds County because the Registrar there follows it completely and does not discriminate and nobody has charged him with discrimination in Hinds County at that particular junction and that he is doing it just exactly right and that the fair proportion of people of all races are getting registered and then turn over in Greene County or in Pike or in Leflore and have exactly the same law administered [fol. 2358] by a different man and a different context and make the statute unconstitutional. This is a real problem that I don't believe is properly presented to this Court where you have all of these multiple defendants and basically you have got the wrong that's being done not only to the Court's time with these extraneous issues but the wrong that's being done to every one of these individual defendants who ought not be in this lawsuit because it is essentially if anything if they have any rights at all under 1971 its a right to sue the registrar about a pattern or practice act and the unconstitutional we say claim that they would have to say well the state ought to be just hitched on in here and like they said now they are not going to get any relief against them but they are just in the context of that case they said they ought not be parties to the litigation until here was no registrar to sue. This is why they were why the sentence was added in the first place and I am through and I know the Court's finished with me too, but I would say this. I think maybe too narrow construction or too narrow emphasis was directed to the words of the Supreme Court of the United States in *U.S. versus Alabama*. This case didn't reserve just constitutional defenses. The words of the Supreme Court were any defenses constitutional or

otherwise to the validity of 1971c the last sentence which is part of 601b and this is our position with the Court today that you ought to reach these jurisdictional matters first in [fol. 2359] your interest and in the interest of every one of the defendants and we think that their resolution would bring a prompt termination to the litigation and most beneficial to the Court and of course the future could take care of itself. If there is a mistake made I presume that whichever party is aggrieved by what he feels is a mistake is going to appeal it and get a final decision and I don't think that would be nearly as burdensome as traveling all the way to the end of the circuitous route of pursuing what's happened in 92 different registration offices and how its effected the statute and what's happened in this State since 1890.

By Judge Cameron:

All right, Mr. Doar, you and Mr. Owen take your time.

By Mr. Doar:

Well, Your Honor, I want to say just a few words. We sued the State of Mississippi in this case because we felt that we were not barred by the Eleventh Amendment because this involved the constitutionality of the state statutes in Mississippi and because of congressional authority given to us by section or by the amendment to subsection c of 1971 and that's our theory. We also believe, Your Honor, that the United States under 1971 has the power to challenge the constitutionality of state statutes in a suit against a single registrar. We believe that that issue is one that can be tested in that way as well. Now if we can't sue the state to test the constitutionality and if we can't sue the single [fol. 2360] registrar to test the constitutionality of the state statutes then it seems to us that the line of opinions or the line of authorities would begin with United States versus Texas becomes meaningless and that and the permanence of the union the Court said might be endangered if some tribunal is not entrusted with power to determine that according to recognized principles of law. Now as I understand it the State's argument is that private individual can test these constitutional questions but the government could not and yet our theory is that the state statutes in and

of their use because of the setting and the purpose and finally because of the number of persons in each race that were registered at the time that the statutes were passed makes them acts and practices that constitute discrimination against negroes. Now finally—

By Judge Brown:

Well, now in showing that do you have to bring yourselves within the two or three elements of 1971a that people were otherwise entitled to vote?

By Mr. Doar:

Yes, we would show that. We would show that people were under the Raines case we as guardian of the public interest have the authority to challenge anything that deprives people otherwise qualified.

By Judge Brown:

Well, would you construe that provision of the [fol. 2361] statute then to require that you establish as to at least one voter that there has been a denial of his right to vote because of an unconstitutional statute.

By Mr. Doar:

I believe we would show whether we have to show it or not I believe that we would show that there was a nature of controversy that there was a uh these statutes were used to deprive people of the right to vote negroes.

By Judge Brown:

Well, now specifically say for this new one was put in in 62 on good moral character aren't you going to have to be able aren't you going to have to provide at least voter who was turned down under that?

By Mr. Doar:

I don't think you have to show it doesn't necessarily be turned down, it could act as a deterrent, it could act as a

deterrent and in that way the fact that the person didn't go up to apply in face of that statute is as much deprivation if they actually do go up and apply.

By Judge Brown:

Well, now then tell me one last simple thing. If the Court were to hold that the Government is a plaintiff a proper plaintiff under 1971a and that this District Court has jurisdiction over three voting registrars what relief do you get by having the State in that you wouldn't get if you [fol. 2362] won all the way with those three defendants in?

By Mr. Doar:

Well, we get the relief that the Court, uh we get the relief that the Court mentioned here that the officials throughout the State of Mississippi would comply with the decision of the Court and as I remember it I am not sure of this some of the Three-Judge Courts cases involving interstate transportation in Alabama although the Court would declare a particular statute unconstitutional as applied say to the Birmingham terminal system the rest of the state just wouldn't pay any attention to that determination at all. We would like to avoid that if we could. Now finally nothing has been said today with respect to the statistics and the theory that a statute can be unconstitutional if passed at the time when there are a large number uh a great number of white people already registered and very few negroes registered and the proof was such that negroes had been kept off the rolls by one way or another.

By Judge Cameron:

You have some sort of notion that eventually southern states have got to make an equalization either by lopping off whites or boosting up negroes so their their percentage of the population will be represented in the voting booth?

By Mr. Doar:

No, I don't have that at all.

[fol. 2363] By Judge Cameron:

You argued that I thought in the—

By Mr. Doar:

No sir but I say that you in the Atkins case, Your Honor, recognized the principles the freezing principles, you didn't apply them but you recognized them.

By Judge Cameron:

We said we would leave it for another case in a suit brought for the purpose of freezing.

By Mr. Doar:

We have no dispute of the power of the Federal Court to invoke the freezing principle to give relief where necessary. Now we say that that case involved the constitutionality of state statutes. The freezing principle was more pertinent although we think its pertinent in other cases too its pertinent in cases where statistics show that when a statute was passed requiring unregistered voters to meet a requirement and exempt registered voters from meeting that same requirement such as to read and interpret 1954 such as the good moral character of 1962, such as the coming back and finding out for yourself, a more onerous procedure in 1962. Registration in Mississippi is permanent and all persons who are previously registered are exempt. Now one of our elements of the proof that we would intend to offer would be what the statistical picture showed with [fol. 2364] respect to registration and at the dates that these laws were passed.

By Judge Cameron:

You want us to give relief for what those old gentlemen whose bones are resting out on the hills here did way back in 1890 and 95.

By Mr. Doar:

No, Your Honor. I want this Court to consider that fact along with the other facts in the case in making its determination. That's what we want the Court to do.

By Judge Brown:

Tell me one thing, Mr. Doar. Do you have any plans for any other pre-trial depositions or discovery depositions or interrogatories other than the twelve or so that have been suspended and the depositions of the party registrars on which you were working by mutual agreement?

By Mr. Doar:

No, Your Honor, and as a matter of fact we concluded not even to press for those because as I told the defendants and I would like to tell the Court the questions that we would ask these people doesn't go into why did you register that person or why did you register that person, why didn't you register that person. All we want to do is just how he applied the statutes, we would have this read and interpret, what was your practice, would you put the sections in a drum and draw them out or did you have a book or did you [fol. 2365] have cards, did you require everyone to take the section, how did you grade the section, what did you do, did you have a set of standard answers or didn't you. Those question which would be very few in number. Not what did you do with that particular person.

By Judge Cox:

You contend that that throws some light on the constitutionality of the act?

By Mr. Doar:

Yes, it does, that's our theory, Your Honor.

By Judge Cox:

You think there's something built in for negroes?

By Mr. Doar:

No, because of the unlimited discretion, that's part of the proof on the unlimited discretion and then of course Judge Brown asked us to prove that certain negroes have been deprived. We wouldn't necessarily have to call the registrars for that. We would show that by the records.

By Judge Cameron:

How many states now have literacy tests?

By Mr. Doar:

How many have literacy tests. I believe 17.

By Mr. Lott:

20.

By Mr. Doar:

20, but its not the literacy test that we complain of. [fol. 2366] The interpretation that's what we are quarelling about.

By Judge Cameron:

Have you brought a suit like this in any other state?

By Mr. Doar:

Yes.

By Judge Cameron:

Where?

By Mr. Doar:

In the State of Louisiana.

By Judge Brown:

Is that the one just last week?

By Mr. Doar:

No sir, that's a case that's pending for decision before Judge West, Judge Christianberry and Judge Wisdom testing the constitutionality of the Louisiana statute requiring the citizens to read and interpret any section of the state or federal constituiton.

By Judge Brown:

Has that been submitted yet?

By Mr. Doar:

It has been submitted.

By Judge Cameron:

How long ago?

By Mr. Doar:

It was submitted uh the case was tried in March and [fol. 2367] briefs were due by the 1st of May and I think the State received several extensions in which to file its brief and ultimately the Court considered the matter submitted in the middle of August.

By Judge Cameron:

And you had proof like this in that record too did you?

By Mr. Doar:

Yes.

By Judge Cameron:

All right, anybody else got anything they want to say? Mr. Owen, would you like to make a statement?

By Mr. Owen:

The only point I was going to make was raised by a question one of you had earlier about we have difficulty with the language of pattern and practice suits. Now this suit as Mr. Doar said attacks the constitutionality of certain Mississippi statutes but also in terms of relief we ask for finding of pattern and practice of discrimination because of the adoption and use of unconstitutional statutes. Now we feel there is supporting legislative history Senator Keating in supporting the bill in 1960 on the floor said that the adoption of an unconstitutional statute would be a pattern and practice of discrimination uh and uh I just wanted to uh make that point.

[fol. 2368] By Judge Brown:

Well, do you see any reason uh isn't there something contradictory with this present proceeding and the typical pattern and practice proceeding that's committed to a district court to have a Three-Judge Court sitting in Jackson or Meridian going into all the merit of details that might involve 92 registrars who are entitled to be have that case tried in their own divisions in their own districts. I will put it another way is there any reason why the Court if we were to conclude that this testimony that you want to develop has a relevance on the constitutional question that the Court itself could restrict it for that purpose and not let its admission drag us unwittingly into a pattern and practice thing that will set in voter referees and all that sort of stuff?

By Mr. Owen:

Well, I think the Court and under the complaint would be limited I mean for example uh we wouldn't introduce loads of proof about a guy who comes in and the registrar says you can't even get the form. Seems to me that the proof in this case must relate to some aspect of the constitutionality of the statute you know such as discriminatory selection this relates to so much discretion vested in the registrar, so much discretion he can discriminatorily select the section of the constitution, he can give assistance to uh people, he can grade them in a discriminatory manner, but I think the [fol. 2369] proof certainly is going to be circumscribed but with respect to the second thing that you asked the point I am making is that the statute the adoption of the statute itself we contend in this case is the pattern and practice of discrimination. I don't mean to suggest that what we want to do is put proof of a typical discrimination suit in to show a pattern and practice but the proof necessary to show the unconstitutionality unconstitutional effect of the statute and then you have a declaration of unconstitutionality and then we contend that by virtue of the fact that the State of Mississippi adopted an unconstitutional statute that in and of itself constitutes a state wide finding of pattern and practice, should constitute a state wide finding of pattern and practice of discrimination.

By Judge Brown:

But if we followed you that far we might be confronted with the task of appointing referees mightn't we to operate under a statute which we hold is unconstitutional doesn't seem to be very seems to be incongruous.

By Mr. Owen:

Well, the letter which we sent to the Court earlier suggested as this is one of the issues which the Court would have to be confronted with the effect of a finding of a pattern or practice seems to me there are several possibilities which of course don't arrive until such a finding is made. It could be taken care of by the District Court by a single [fol. 2370] Judge once you make the finding I mean the operation of the provision might not be under the control of the Three-Judge Court but a single Judge in this District and in the Northern District, but uh this issue is not really ripe but it certainly is an issue in the case if the court finds a pattern and practice.

By Judge Cox:

Mr. Doar, would you agree with the thought if the other side would stipulate with you that the colored people had been denied registration because they had flunked the intelligence test under 241a and 244 or the good moral character test under 244 that that would be all that you would need on this discovery process?

By Mr. Doar:

No, I wouldn't.

By Judge Cox:

You have something beyond that.

By Mr. Doar:

I think our proof would be that negroes have been denied in the past when they met the standards. No that wouldn't solve the problem.

By Judge Cox:

In other words you want your evidence to go further than that. You are trying to prove something in addition to that.

[fol. 2371] By Mr. Doar:

Yes.

By Judge Cox:

What?

By Mr. Doar:

Just to show how the statute various ways the statute has been used and that it has in fact been used not to reject negroes who flunked but it was used to reject negroes that passed.

By Judge Cox:

To reject negroes who passed?

By Mr. Doar:

Yes.

By Judge Brown:

Who ought to have passed.

By Mr. Doar:

Who ought to have passed, I mean like—unable to understand counsel. If they will stipulate to that and to a number of other things like that.

By Judge Cox:

You think that reflects on the constitutionality of the statute.

By Mr. Doar:

I think it shows that there is a controversy.

[fol. 2372] By Judge Cox:

We are not talking about a controversy. We are talking about whether these acts are constitutional or unconstitutional.

By Mr. Doar:

I think it doesn't necessarily reflect on the constitutionality but I think its a relevant issue in this case.

By Judge Brown:

In other words its like the case involving the atomic energy you have to prove the nature of the phenomena before the court can ascertain whether it denies a right to the person who is claiming.

By Mr. Doar:

Yes sir.

By Judge Brown:

Well, we have been in everything else. Now we are in atomic energy.

By Judge Cameron:

Court will recess until court in due course.

(This concluded the hearing of this cause.)

[fol. 2373-3038] Reporter's Certificate to foregoing transcript omitted in printing.

[fol. 3039] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIEPI, JACKSON DIVISION

Civil Action Number 3312

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF MISSISSIPPI, ET AL, Defendants

OPINION—Filed March 6, 1964

Before CAMERON and BROWN, Circuit Judges, and Cox, District Judge,

CAMERON, Circuit Judge:

In this action, the "Indestructible Union" member of the partnership which constitutes the government of this country makes a frontal attack upon the other member, the "Indestructible State" of Mississippi, seeking to enjoin the enforcement of certain laws of the State defining the qualifications of the "electors" who shall vote in elections for president and vice president of the United States and members of the Congress. The State of Mississippi and its people have, in the Constitution of 1890 and thereafter, *enacted constitutional and statutory provisions covering the whole field of choosing of such "electors"*. The United States seeks to strike down some of these enactments upon the claim that they violate the Fourteenth and Fifteenth Amendments of the Constitution, in that they deny certain rights to Negroes because of their race, color or previous condition of servitude. We hold that, from the face of the pleadings, the effort to strike them down may not succeed.¹

¹ This Court has met on two occasions with counsel for the various parties. On the first meeting we had an extensive pretrial and exploratory hearing during

I

The United States of America filed a complaint invoking the jurisdiction of this Court under the pro-

which the large number of lawyers and the Court discussed generally the questions presented and the procedural means by which they could best be approached. There was general discussion about the issues involved, the use of discovery procedures and other matters and tentative orders were entered which, by the action taken here, are rendered inoperable.

After a change in the personnel of the Court, another hearing with counsel was held and full argument was invited in which each litigant urged the procedures he thought desirable. The defendants had filed, prior to their answers, a number of motions attacking the constitutionality of some of the statutes relied upon by the plaintiffs when given the constructions placed on them by the plaintiff; and each defendant had filed a motion to dismiss the claim against it or him, on the ground that the complaint failed to state a claim, that the Court did not have jurisdiction of the subject matter or of some of the parties and had moved that they be heard in advance of any trial on the merits.

Following that argument and after correspondence between the Judges, two additional conferences were had. The plaintiff had answered in large volume the interrogatories propounded to them by certain of the defendants, and had taken a number of depositions, but had not completed its discovery procedures. The defendants were claiming the right, if their motions to dismiss were denied, to begin their discoveries and to take the depositions of each of the registrars in the State of Mississippi or of prior registrars. It further appeared that no matters outside the pleadings had been presented to the Court, that no motion for summary judgment under Rule 12(c) had been made or the propriety of it suggested, and that no affidavit or counter affidavits had been filed which complied with the requirements of Rule 12(c) and 52 F.R.C.P. It was further found that the interrogatories had been an-

visions of 42 U.S.C. § 1971(d),² 28 U.S.C. § 1345,³ and 28 U.S.C.

swered and sworn to by various attorneys for the plaintiff and set forth the results of their investigations and were made up of legal or factual conclusions from hearsay evidence or were otherwise inadmissible in evidence.

We concluded that the case could be heard and decided much more expeditiously by considering the complaint and all well-pleaded averments, stripped of legal opinions and conclusions, as factually true and could reach a decision in keeping with accepted legal principles and could do justice to the parties as completely as if the contents of the answers to interrogatories and the depositions should be considered.

The defendants have pressed their motions to dismiss, claiming the right to be heard before trial on the merits on such grounds as failure of the complaint to state a claim, nonjurisdiction of the subject matter or the parties, [fol. 3041] and like questions. We concluded that this position was sound and in the interest of justice and have therefore disposed of the case on the face of the pleadings, having rejected all of the depositions and interrogatories and the answers thereto (although none of them were ever offered in evidence or presented to the Court).

We think this is not in conflict with such cases as *Conley v. Gibson*, 355 U.S. 41. Compare *KVOX v. Associated Press*, 299 U.S. 269, 278; *Battaglia v. General Motors Corp.*, 169 F.2d 254, certiorari denied 355 U.S. 887; *Flanders v. Coleman*, 250 U.S. 223; *Rhode Island v. Massachusetts*, 37 U.S. 657, 659.

² "1971. Voting rights—Race, color, or previous condition not to affect right to vote.

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law. 71 Stat. 637, Sept. 9, 1957."

³ "§ 1345. United States as plaintiff.

Except as otherwise provided by the Act of Congress,

§ 2281.⁴ The State of Mississippi was joined as a party defendant pursuant to § 601(b) of the Civil Rights Act of 1960.⁵ The other defendants are the three members of the Miss. State Board of Election Commissioners, and six county registrars of voters (the regularly elected Circuit Clerks of their respective counties).

The complaint is filed under the authority of 42 U.S.C. § 1971 (a)—(c).⁶ It attacks the validity of the Mississippi

the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress. June 25, 1948, c. 646, 62 Stat. 933."

⁴ "§ 2281. Injunction against enforcement of State statute; three-judge court required.

An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any [fol. 3042] district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title. June 25, 1948, c. 646, 62 Stat. 968."

⁵ "Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act of practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the state and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State." (Now a part of 42 U.S.C. § 1971 (c).

⁶ "(a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, town-

Constitution and statutes which govern registration for voting. It contains four claims. In the plaintiff's words, these claims are described as follows:

"The first claim of the Complaint attacks the validity of Section 244 of the Mississippi Constitution, adopted in 1955 and used since that time by registrars throughout Mississippi, which provides as a prerequisite for registrations that persons must read and write and give a reasonable interpretation of any section of the Mississippi Constitution and a statement of the duties and obligations of citizenship to the local county registrar on a form provided by the State Board of Election Commissioners. The Complaint attacks Section 244 and its implementing legislation [fol. 3044] on the following grounds:

"1. Section 244 vests unlimited discretion in the registrar and in light of its setting of white political supremacy and a racially segregated society it is an unconstitutional device to disfranchise Negroes;

"2. Section 244 imposes new and more stringent requirements for registration following a long period of racial discrimination in the registration process,

ship, school district municipality or other territorial subdivision shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

Intimidation, threats, or coercion

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such [fol. 3043] other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners

and exempts from the new requirement most of the white citizens, the inevitable effect of which is to perpetuate past discrimination;

"3. In a State where public educational facilities are and have been racially segregated and those for Negroes are inferior, the interpretation test which bears a direct relation to the quality of public education violates the Fifteenth Amendment;

"4. Section 244 is vague and provides no objective standards for its administration;

"5. There is no reasonable or legitimate interest on the part of the State in requiring as a prerequisite

from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

Preventive relief; injunction; costs; State as party defendant

(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State. 74 Stat. 90, May 6, 1960."

for voting that citizens interpret certain of the legal and hyper-technical provisions of the Mississippi Constitution. "The second claim of the Complaint attacks Section 241A of the Mississippi Constitution enacted in 1960 which provides that applicants for registration shall be of good moral character. The Complaint alleges that this constitutional provision is invalid because, since registration is permanent, it exempts most of the white citizens in Mississippi from its requirements. It also provides no objective reference [fol. 3045] by which the county registrar may determine good moral character and thus is so vague and indefinite as to permit registrars to arbitrarily reject Negro applicants.

"The third claim attacks the validity of a Mississippi statute enacted in 1960 which permits registrars to destroy registration records. In 1960 Congress enacted Title III of the Civil Rights Act requiring county registrars to retain and preserve the very records which under Mississippi law are permitted to be destroyed.

"The fourth claim in the Complaint attacks a package of legislation adopted by the Mississippi legislature shortly after the Court of Appeals for the Fifth Circuit issued an injunction on April 10, 1962 forbidding the registrar in Forrest County, Mississippi, from engaging in discriminatory practices in registration for voting. This legislative package included House Bills 900, 903, 822, 904. H. B. 900 requires that applicants for registration complete a letter-perfect application form without assistance in order to qualify to register. H.B. 903 prevents registrars from advising applicants for registration as to the reason such applicant was rejected, because such would constitute assistance to the applicant. H.B. 822 and 904 provide for publication of the names of applicants for registration, require an applicant to wait an extended period even before he determines whether he is registered or denied registration, and permit any qualified elector to challenge the qualifications of any applicant whose name is published. This package of

[fol. 3046] legislation is attacked as arbitrary and unreasonable. It exempts from its provisions most of the white citizens because they are presently registered to vote and its unquestioned effect is to impose more burdensome and stringent requirements for registration on persons not registered prior to 1962. The legislation as with the other laws under attack provides no objective standards for its administration.

"The relief requested by the United States is a declaration of the invalidity of Sections 244 and 241A of the Mississippi Constitution and the implementing legislation of both provisions, the records destruction legislation, and four bills in the package of legislation enacted in 1962. An injunction vitiating the effects of the invalid Mississippi laws and practices thereunder is requested. [Actually the complaint prays for a mandatory injunction setting up court created state voter registration qualifications for Negroes only and requiring the defendants to use such qualifications in registering Negroes who may apply after the date of such an order.] Plaintiff also requests the court to find that the use of the invalid legislation has deprived Negro citizens of the right to vote on account of their race and that the deprivations have been pursuant to a pattern and practice of racial discrimination. This finding is sought to set in motion 42 U.S.C. 1971(e) of the Civil Rights Act of 1960."

II

Each defendant has moved to dismiss the complaint for failure to state a claim on which relief could be granted and [fol. 3047] the defendant Registrars of voters who are non-residents of this district have moved to dismiss for want of venue jurisdiction; the defendant Registrar of Claiborne County has moved for dismissal or for transfer to the division having venue jurisdiction of her county. Each defendant Registrar has also moved for a severance and separate trial. No supporting or counter affidavits were or have been filed. Answers have been filed by all defendants.

III

It is elementary that in ruling on the motions to dismiss, the Court must treat them substantially as demurrers testing the legal sufficiency of the complaint. The Court must assume all of the complaint's well-pleaded facts, as distinguished from conclusions, deductions and averments of law, as established for the purpose of the motion.⁷ Neither the answers of the defendants nor any part of the discovery procedures should be considered.⁸

[fol. 3048]

IV

The Complaint further alleges the following as facts: All registrars of voters in the State of Mississippi since at least 1892 have been white citizens. In the counties of the defendant registrars, the statistics on voting age popu-

⁷ *Collins v. Hardyman*, 341 U.S. 651; *Halliburton Co. v. Norton-Drilling Co.*, 302 F.2d 431. Modern practice treats such motions as performing every office of the former demurrer, but as unhampered by any of its technical rules. The Complaint must be viewed in a light most favorable to the plaintiff.

⁸ "Plaintiffs did not submit the case to be decided upon the merits upon the bill, answers and affidavits. Defendants' motion to dismiss, like the demurrer for which it is a substitute (Equity Rule 29) [28 U.S.C.A. following section 723] was addressed to the sufficiency of the allegations of the bill. For the purpose of that motion, the facts set forth in the bill stood admitted. For the purpose of that motion, the court was confined to the bill and was not at liberty to consider the affidavits or the other evidence produced upon the application for an interlocutory injunction." *Polk Co. v. Glover*, 305 U.S. 5; as to the rejection of conclusionary allegations of fact and law, see *Newport Nws Shipbuilding & Drydock Co. v. Schaeffler*, 303 U.S. 54, and *Snwden v. Hughes*, 321 U.S. 1; *Gibbs v. Buck*, 307 U.S. 66.

lation of Negro and white persons and the approximate voter registration of each race are as follows:

	White		Negro	
	Voting Age Population	Registration	Voting Age Population	Registration
Amite	4449	3295	2560	1
Coahoma	8708	8376	14604	1371
Claiborne	1688	1440	3969	138
Lowndes	16460	5869	8362	63
LeFlore	10274	9803	13567	258
Pike	12163	9989	6936	124

At the time of the adoption of the Mississippi Constitution of 1890 there were substantially more Negroes than whites in Mississippi. By 1899, approximately 122,000 or 82% of the white males of voting age and 18,000 or 9% of the Negro males of voting age were registered to vote in Mississippi. Since 1899, a substantial majority of white persons reaching voting age in Mississippi have become registered voters. The percentage of Negroes registered to vote has declined.

During the period from 1899 to approximately 1952 Negroes were not allowed to register to vote; literate Negroes were required to interpret sections of the Mississippi Constitution; and Negroes were excluded from Democratic primary elections. During this time, victory in the Democratic primary in Mississippi was tantamount to election. By 1951, a much higher percentage of the Negroes of voting age in Mississippi were literate than in 1890.

[fol. 3049] In 1952, a proposed amendment to Section 244 of the Constitution, providing that in the future, it would be prerequisite to becoming an elector that a person be able to read and write any section of the Mississippi Constitution and demonstrate a reasonable understanding of such section and the duties and obligations of citizenship, was defeated by the voters.

In 1954, at least 450,000 or 63 per cent of the white persons of voting age in Mississippi were registered to vote. In 1954, approximately 22,000 or five per cent of the Negroes of voting age in Mississippi were registered to vote.

In 1954, after the Supreme Court had declared state operation of racially segregated schools unconstitutional,

white citizens councils—not parties to this action—were formed in Mississippi. The purpose of these organizations was the maintenance of racial segregation and white supremacy in Mississippi. The first statewide project undertaken by these organizations was the attempt to induce the white voters of Mississippi to adopt the proposed amendment to Section 244 of the Mississippi Constitution of 1890.

Of the approximately 472,000 registered voters in Mississippi who were eligible to vote on this proposed amendment in 1954, about ninety-five per cent were white; fewer than five percent were Negro. The amendment was adopted in a state where the public education facilities were and are racially segregated, and where such facilities provided for Negroes were and are inferior to those provided for white persons.

Since 1955, the defendant registrars, as well as many other registrars in Mississippi have enforced the requirements of Section 244, as amended, when Negroes have attempted to register to vote, by requiring Negroes to interpret sections of the Mississippi Constitution and to [fol. 3050] demonstrate their understanding of the duties and obligations of citizenship on the form prescribed by the State Board of Election Commissioners.

In 1960, approximately 500,000 or 67 per cent of the white persons of voting age in Mississippi, and approximately 20,000 to 25,000, or five per cent of the Negroes of voting age were registered to vote.

Of the approximately 525,000 registered voters in Mississippi who are eligible to vote on the proposed amendment adding Section 241-A to the Mississippi Constitution, about 95 per cent were white; fewer than 5 per cent were Negro. The amendment was adopted in a state where all state officials were white.

The suits filed by the United States against several county voter registrars and the action taken by the Court of Appeals in issuing an injunction against T. C. Lynd, the Circuit Clerk and Registrar of Forrest County, Mississippi, concerning voter registration discrimination, were matters of common knowledge throughout the State of Mississippi.

Some registration application forms, including some forms received by defendant H. K. Whittington in Amite County, Mississippi, have been destroyed.

In late 1961 and early 1962, Negro citizens and organizations conducted a voter registration drive in Mississippi for the purpose of increasing the number of Negroes eligible to vote in the 1962 Mississippi primary elections. For the first time in many years Negroes were candidates for the office of representative in the Congress of the United States. These facts were widely publicized and were matters of common knowledge throughout Mississippi.

[fol. 3051]

V

In support of its motion to dismiss, the State of Mississippi contends that Section 601(b) of the Civil Rights Act⁹ is unconstitutional as applied to it. Its position is that the Fifteenth Amendment forms the only basis for 42 U.S.C. § 1971,¹⁰ and that this amendment is directed to persons through whom a state may act and not to the sovereign entity of the state itself. The State of Mississippi also contends that all legislation by which Congress may choose to implement the Fourteenth Amendment is subject to the same objection. It supports these contentions by citation of numerous authorities.¹¹ The contentions appear to us to present a substantial constitutional claim. Cf. *Gibbs v. Buck*, Note 9, *supra*.

In *Ex parte Virginia*,¹² the Supreme Court of the United States used the following language:

⁹ See Note 5.

¹⁰ See *United States v. Raines*, 362 U.S. 17.

¹¹ E.g., the United States Supreme Court cases of: *McCulloch v. Maryland*, 4 Wheat 316; *Osborne v. Bank of the United States*, 9 Wheat 738; *Texas v. White*, 7 Wall. 700; *Ex parte Virginia*, 100 U.S. 339; *Poindexter v. Greenhow*, 114 U.S. 270; and *Ex Parte Young*, 209 U.S. 123; and a number of opinions from the United States Court of Appeals for the Fifth Circuit, the most recent of which is *St. Helena Parish School Board v. Hall*, 287 F.2d 376.

¹² Note 11, *supra*.

[fol. 3052] "They [the proscriptions of the 14th Amendment] have reference to actions of the political body denominated a State, by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive or its judicial authorities. It can act in no other way. . . . Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State. . . .

"But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons, to insure to all persons the enjoyment of such rights, power was given to Congress to enforce its provisions by appropriate legislation. *Such legislation must act upon persons, not upon the abstract thing denominated a State but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured.*"

[Emphasis added.]

This reasoning from *Ex parte Virginia* has been recently approved in *Cooper v. Aaron*,¹³ and in *United States v. Raines*.¹⁴ as to the Fifteenth Amendment. In the case of *Poindexter v. Greenhow*,¹⁵ the Supreme Court said:

[fol. 3053] "In the discussion of such questions the distinction between the government of a state and the state itself is important and should be observed. In common speech and common apprehension they are usually regarded as identical; and as ordinarily the acts of the government are the acts of the State, because within the limits of its delegation of power, the government of the State is generally confounded with the State itself, and often the former is meant when

¹³ 358 U.S. 1.

¹⁴ Note 10, *supra*.

¹⁵ Note 11, *supra*.

the latter is mentioned. *The State itself is an ideal person, intangible, invisible, and immutable. The government is an agent, and, within the sphere of the agency, a perfect representative; but outside of that it is a lawless usurpation.* The Constitution of the State is the limit of the authority of its government, and both government and State are subject to the supremacy of the Constitution of the United States and of the laws made in pursuance thereof. So that, while it is true in respect to the government of a State, as was said in *Langford v. United States*, 101 U.S. 341 (Bk. 25, L.ed 1010), that the Maxim, that "the King can do no wrong" has no place in our system of government; yet it is also true, in respect to the State itself, that whatever wrong is attempted in its name is imputable to its government and not to the State, for, as it can speak and act only by law, whatever it does say and do must be lawful. *That which, therefore, is unlawful because made so by the supreme law, the Constitution of the United States, is not the word or deed of the State, but is the mere wrong and trespass of those individual persons who falsely speak and act in its name.* It was upon the ground of this important distinction that this court proceeded in the [fol. 3954] case of *Texas v. White*, 7 Wall., 700. (74 U.S. bk. 19, L.ed 227) when it adjudged that the acts of secession which constituted the civil war of 1861 were the unlawful acts of usurping State Governments and not the acts of the States themselves, inasmuch as 'the Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States'; and that consequently the war itself was not war between the States, nor a war of the United States against States, but a war of the United States against unlawful and usurping governments, representing not the States, but a rebellion against the United States."

In *Ex Parte Young*,¹⁶ the court was explicit in holding that the proper defendant in an action seeking to prevent

¹⁶ Note 11, *supra*

the enforcement of an unconstitutional statute was not the sovereign state itself but rather the officer charged with the enforcement of the statute.¹⁷

Although the cases relied on principally relate to instances in which the Eleventh Amendment was invoked as a bar to the action brought, the State of Mississippi contends that it does not rely on the Eleventh Amendment here. It rather asserts that the legal reasoning which allows individuals to pursue alleged violations of Fourteenth and Fifteenth Amendment rights caused by "State Action," despite the provisions of the Eleventh Amendment [fol. 3055] ment, is equally applicable to demonstrate the non-liability of the State in the present suit.

In the latest and only comment on the subject, the Supreme Court of the United States expressly pretermitted any decision on the constitutionality of Section 601(b) in its per curiam opinion in *United States v. Alabama*.¹⁸ The Court of Appeals for the Fifth Circuit has taken the same attitude in a direct comment on the same question in *United States v. Atkins*,¹⁹ in which the Court stated:

"In that case [*United States v. Alabama*], the Supreme Court intimated no views upon 'any defenses, constitutional or otherwise, that may be asserted by the State.' We follow the same course in the present case."

Obviously these tribunals consider the question still an open and undecided one.

The plaintiff contends that Section 601(b) authorizes its suit against the State and cities in support thereof the *Atkins* case and the prior Fifth Circuit decisions of *United States v. Lynd*,²⁰ and *United States v. Dogan*.²¹

¹⁷ See also *Peay v. Cox*, 190 F.2d 123, 125, certiorari denied, 324 U.S. 896, a voting case which came up from Mississippi.

¹⁸ 362 U.S. 602.

¹⁹ 323 F.2d 733.

²⁰ 301 F.2d 818.

²¹ 314 F.2d 767.

Since it is clear from *United States v. Alabama*, Note 18, *supra*, and *United States v. Atkins*, Note 19, *supra*, that neither the Supreme Court nor the Court of the Fifth Circuit considers that the constitutionality of § 601(b) has [fol. 3056] been passed upon and that both courts consider the question open, it is desirable to pause here to demonstrate that neither *Lynd* nor *Duggan* passed upon the constitutionality of the statute in any legal way.

The hasty and confused handling of the two *Lynd* cases by the Court of Appeals for the Fifth Circuit leaves the "whole voyage of their life bound in shallows and in miseries." Perhaps an effort at unscrambling them may be measurably fruitful:

The first case commenced against *Lynd*—but the second case decided—was brought under Title II, civil Rights Act, 1960, 42 U.S.C. § 1974d, and involved an effort by Kennedy to examine and copy his records.²²

This case, No. 1604, in some way found its way to the Court of Appeals and was decided by a panel composed of Judges Rives, Brown and Wisdom, the opinion by Judge Brown. See *Kennedy v. Lynd*, 306 F.2d 222. The opinion covered several other cases from the State of Louisiana and is specifically dealt with beginning at page 227 under the heading "No. 19636, *Lynd*, Registrar Forrest County, Mississippi." It was there that the dictum was first expressed that "Relief under § 1971(c) is not confined to named individual voter officials but extends as far as the sovereign State itself." The opinion purports to lay down a broad sweep of general rules governing the right of the United States to examine and copy records.

[fol. 3057] It is plain that the above quoted statement from page 228 of the Report is wholly without basis.

²² Civil Action No. 1604, Hattiesburg Division, Southern District of Mississippi, commenced January 19, 1961, decided by the District Court January 15, 1962, which court entered an order adjudicating that "Case No. 1604 [is] abandoned and effectually non-existent," and the case was passed to the files. The reason assigned was that the United States had brought a second suit involving the same subject matter.

Neither the United States nor the State of Mississippi was a party to that civil action. The appeal was from the action of the court below in passing the case to the files—certainly a non-appealable action which could be set aside by either party at any time upon a showing that the reason for putting the case on the inactive list was no longer in existence. The decision is bottomed by the author on *United States v. Woods*, 5 Cir., 1961, 295 F.2d 772, 777. An examination of that report will reveal that it did not involve any of the questions presented by *Kennedy v. Lynd*, and the statement that the sovereign State was within the ambit of the relief accorded by the statutes is without legal basis.

The second case commenced against Lynd—but the first decided—was brought pursuant to 42 U.S.C. § 1971(c) and involved a discrimination suit by the United States against Lynd and the State of Mississippi.²³ In that case, no mention was made anywhere in the pleadings, the brief of either counsel, or the opinion of the Court of Appeals of the question of the constitutionality of § 601(b) of the Civil Rights Act of 1960.

This case had never been decided by the District Court. The State of Mississippi was joined as a party defendant, as permitted by the explicit terms of the Act. The only time we find the State mentioned in the opinion by the Court of Appeals is at page 823, where it rejected the contention that the Court of Appeals should not grant a temporary injunction “because the State has not filed its answer and has not put on its proof.”

[fol. 3058] The trial court had ordered the United States to furnish the names of all persons whom it intended to use as witnesses to show discrimination. The Government responded by filing an amended complaint, to which it attached an appendix giving the names of its witnesses. A number of witnesses were called whose names did not appear on the list, and the defendants objected to the testimony as being outside the scope of the pleadings. The

²³ Number 19576, *United States v. Lynd et al*, begun July 6, 1961 and decided by the Court of Appeals April 10, 1962, 301 F.2d 818.

District Court permitted the United States to amend orally the amended complaint, with the condition, however, that defendants could defer cross-examination of the surprise witnesses for a period of thirty days and could then answer the amended complaint.

The United States rested its case, and the defendants put on their testimony. At the conclusion of the three-day hearing, the District Court ruled, upon application of the defendants, that all questions before it, including motion for preliminary injunction, would be deferred until after the thirty-day period, so that the defendants could prepare to cross-examine the witnesses whose names had been omitted from the list.

The District Court did not enter any order at all, and did not make any findings of fact or conclusions of law, and no notice of appeal was given, as provided by the Federal Rules of Civil Procedure. The United States adopted the expedient of going direct to the Court of Appeals for the Fifth Circuit, there filing a motion for an injunction pending appeal. The case was heard at an emergency hearing in Houston, Texas.

Neither in the District Court nor in the Court of Appeals was the question of the suability of the State of Mississippi mentioned in the briefs and, as stated, the opinion of the Court of Appeals did not mention the existence of such a question. The sole specification of error relied upon by the United States alleged that the District Court erred in [fol. 3059] not granting the temporary injunction prayed for.²⁴

It is clear, therefore, that the question of the constitutionality or meaning of § 601(b) never became an issue in either *Lynd* case and was never passed upon by the court in either case. Whatever language the Court of Appeals

²⁴ "The District Court erred in refusing to grant the Attorney General's application for an order, pursuant to § 305 of Title III of the Civil Rights Act of 1960 (42 U.S.C. § 1974(d), 74 Stat. 88), requiring the registrar of elections of Forrest County, Mississippi to permit the Attorney General to inspect the voting records of that county."

used in either *Lynd* case, therefore, was pure dictum and established no precedent to guide the action of any court.

Nevertheless, the language misled the author of the opinion in the *Dogan* case,²⁵ and led to the quoting in *Dogan* of the statement which had been incorrectly made in *Kennedy v. Lynd* quoted *supra*.

The District Court for the Northern District of Mississippi²⁶ had denied the motion of the United States for a preliminary injunction against Dogan, Sheriff and Tax Collector, in connection with his alleged refusal to permit Negroes to pay their poll taxes. The State of Mississippi was named as party defendant, but the lower court denied any relief against either Dogan or the State. We find no mention in the opinion of Honorable Claude F. Clayton, District Judge,²⁷ of the question whether any relief should [fol. 3060] be granted against the State of Mississippi. In the original record, however, among the various discussions of evidence between the court and counsel on one or more occasions, that question was adverted to. It is natural that the discussion did not relate to the suability of the state, because nobody made any attack upon the statutory grant of jurisdiction to sue the states. Some objections to testimony were made and the Government contended that the evidence was admissible to show the state's connection with Dogan's actions. Ruling was reserved on the objections, and the Court was never called upon to make its ruling, and did not ever rule on the question.

When the case reached the Court of Appeals, the two specifications of error filed by the United States were these:

"(1) The District Court erred in refusing to find that distinctions on account of race or color have been made in the collection of poll taxes in Tallahatchie County;

"(2) The District Court erred in excluding evidence

²⁵ 314 F.2d at 771

²⁶ 206 F.Supp. 446.

²⁷ 206 F.Supp. 446.

of racially discriminatory acts occurring prior to the incumbency of Sheriff Everett R. Dogan on December 24, 1959."

No issue was raised before the Court of Appeals, therefore, as to whether relief "extends as far as the sovereign state itself." It is clear, therefore, that the language used by the Court of Appeals in the *Dogan* case (page 771) is dictum and is not authority in any case involving a question similar to the one before us. In fact, Judge Rives, who is the author of *Atkins*, supra,²⁸ sat as a member of [fol. 3061] the second *Lynd* case and in the *Dogan* case.²⁹ And see also the majority and dissenting opinion of that court in No. 20596, *United States v. Ramsey*, — F.2d

The State of Mississippi further makes the point that any violation of 42 U.S.C. § 1971, which would give rise to a cause of action, would constitute a crime under the provisions of 18 U.S.C. § 242. This would then amount to an interpretation of the statute which would authorize a suit between the sovereign federal government and the sovereign state in a criminal matter. As between sovereigns there is no law or crime. It additionally makes the point that the State cannot create an agency to commit a crime, and therefore no statute by fiat can create such a criminal agency relationship.

The State also contends that the special statutes under which this three-judge Court is convoked (28 U.S.C. § 2281-4) specifically authorize an injunction only "restraining the action of any officer of such State in the enforcement or execution" of the statutes charged to be unconstitutional.

²⁸ 323 F.2d 733.

²⁹ The recent three-judge district court in the case of *United States v. Louisiana* (C.A. 2548E, District Louisiana, Baton Rouge Division, Dec. 27, 1963) was apparently led into the same error in its holding that the State may be joined as a party defendant in a proceeding under 42 U.S.C.A. § 1971. It refers to *Lynd* and *Dogan* as authority.

In *Federal Trade Commission v. Claire Furnace Co.*,³⁰ the Supreme Court ruled that no injunction should issue against a party whose only connection with the proceedings was that it could have requested others to take enforcement action, since all defenses available³¹ to the party aggrieved could have been presented in the proceeding where [fol. 3062] in enforcement was attempted. In the three-judge district court case of *Massachusetts Farmers Defense Committee v. United States*,³¹ the court relied upon the *Claire Furnace Company* case and other authorities to support the statement:

"It is well settled that where a statute or regulation is challenged as being unlawful or unconstitutional, an injunction will lie only against the person or agency who is charged with the enforcement of the statute or regulation."

In *Kresge Co. v. Ottinger*, 29 F.2d 762, a special three-judge court, speaking through an opinion by Circuit Judge A. N. Hand, took similar action, as evidenced by the following excerpt from their opinion:

"Inasmuch as the district attorney of New York county and the board of optometry are nowhere in the statute charged with the enforcement of the act, each bill is dismissed as to them for this reason, as well as for other reasons hereafter stated."

The Federal Court System has always adhered to the rule that constitutional issues are not to be decided except where such constitutional decision is clearly required by the interests of justice. Perhaps the landmark case in support of this proposition is *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288. Speaking through Chief Justice Hughes, the Court stated: [P. 324]:

"The pronouncements, policies, and program of the [fol. 3063] Tennessee Valley Authority and its direc-

³⁰ 274 U.S. 160.

³¹ 26 F.Supp. 941.

tors, their motives and desires, did not give rise to a justiciable controversy save as they had fruition in action of a definite and concrete character constituting an actual or threatened interference with the rights of the persons complaining. The judicial power does not extend to the determination of abstract questions . . .

At the last term the court held, in dismissing the bill of the United States against the state of West Virginia, that general allegations that the state challenged the claim of the United States that the rivers in question were navigable, and asserted a right superior to that of the United States to license their use for power production, raised an issue 'too vague and ill-defined to admit of judicial determination.' . . . Claims based merely upon 'assumed potential invasions' of rights are not enough to warrant judicial intervention." [Citations in the original opinion are omitted for brevity.]

The concurring opinion of Mr. Justice Brandeis gives us an outline of the great judicial principles applicable to constitutional adjudications [Pp. 345-348]:

"The Court has frequently called attention to the 'great gravity and delicacy' of its function in passing upon the validity of an act of Congress and has restricted exercise of this function by rigid insistence that the jurisdiction of federal courts is limited to actual cases and controversies; and that they have no power to give advisory opinions. On this ground it has in recent years ordered the dismissal of several [fol. 3064] suits challenging the constitutionality of important acts of Congress . . .

"The Court developed, for its own governance in the cases confessedly within its jurisdiction, a series of rules under which it has avoided passing upon a large part of all the constitutional questions pressed upon it for decision. They are:

"1. The Court will not pass upon the constitutionality of legislation in a friendly, nonadversary, pro-

ceeding, declining because to decide such questions is legitimate only in the last resort, and as a necessity in the determination of real, earnest, and vital controversy between individuals. It never was the thought that, by means of a friendly suit, a party beaten in the legislature could transfer to the courts an inquiry as to the constitutionality of the legislative act.'

"2. The Court will not 'anticipate a question of constitutional law in advance of the necessity of deciding it.' . . . 'It is not the habit of the court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case.' . . .

"3. The Court will not 'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.' . . .

"4. The Court will not pass upon a constitutional question although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. This rule has found most [fol. 3065] varied application. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter. . . .

"5. The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation . . . Among the many applications of this rule, none is more striking than the denial of the right of challenge to one who lacks a personal or property right. Thus, the challenge by a public official interested only in the performance of his official duty will not be entertained. . . .

"6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits. . . .

"7. 'When the validity of an act of Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction

of the statute is fairly possible by which the question may be avoided.' ''³²

We are of the view that the motion to dismiss filed by the State of Mississippi presents a case where the Court can and should avoid a decision on a question of constitutionality, where as here, the matter may be decided on non-constitutional grounds. As the Fifth Circuit pointed out in [fol. 3066] *United States v. Atkins*, supra, it would not be appropriate for it to grant relief against the State where Registrars are in office and are subject to suit and injunctive relief. Nowhere does the Complaint, except by injecting rash conclusions, demonstrate that the State, as such, is enforcing or threatening to enforce the statutes or constitutional provisions under attack. Rather, it is the County Registrars who are defendants who enforce the regulations in question.³³

Before leaving the question of the suability of the State, it is well to consider the circumstances under which the statute granting the right to sue the State came into being. The United States of America sued the State of Alabama, together with certain registrars who had resigned from the position before the suit was filed. The United States District Court for the Middle District of Alabama dismissed the action holding, among other things, that the sovereign State of Alabama was not subject to suit by the United States in the action involving alleged discrimination in the denial to Negroes of voting rights: *United States of America v. State of Alabama et al*, March 6, 1959, 171 F. Supp. 720, 730. It relied on the fact that the Civil Rights Act of 1957 did not specifically grant the right to proceed against the State. The Court there followed the general law as stated in *United States v. United Mine Workers of America*, 1947, 330 U.S. 258, in which it was held that sovereign governments were not included within the word "Persons."

The Court of Appeals for the Fifth Circuit affirmed the

³² (Again, citations have been omitted for the sake of brevity.) See also *Lane v. Wilson*, 307 U.S. 68.

³³ See Note 36 infra.

[fol. 3067] decision of the district court, *United States of America v. State of Alabama*, June 16, 1959, 267 F.2d 808, stating:

"Without elaborating upon it, as under the settled law of the cases we could do in extenso, it is sufficient for us to simply say that, under the principle which has been, and still is, controlling upon the federal courts, whatever congress might or could do in providing in a civil rights action for conferring federal court jurisdiction over a state, it has never heretofore done so and it has not in terms done so in the statute invoked here.

"Absent such specific conferring or jurisdiction, a federal court would not, indeed could not assume jurisdiction over a sovereign state without a precedent determination that, though the jurisdiction had not been expressly conferred, the language of the invoked statute carried the necessary, the unavoidable implication that the congress upon the gravest considerations and after the utmost thought and deliberation had intended to and did confer it." (Citing a large number of cases.)

While this action was pending in the Supreme Court upon certiorari, the Congress inserted the words making the state itself conditionally liable under the Civil Rights Act (Act of May 6, 1960, 74 Stat. 86, § 601 (b), 42 U.S.C. § 1971 (c)). The Supreme Court, on May 16, 1960, vacated the judgments of the Court of Appeals and the District Court and remanded to the District Court for further hearing, *United States v. Alabama*, 362 U.S. 602, 604, using this language:

[fol. 3068] "Shortly before the case was heard in this Court on May 2, 1960 [being the same day the case was argued before the Supreme Court], Congress passed the Civil Rights Act of 1960. . . . Among other things § 601 (b) of that Act amends 42 U.S.C. § 1971 (c) by expressly authorizing actions such as this to be brought against a State. Under familiar princi-

ples, the case must be decided on the basis of law now controlling, and the provisions of § 601 (b) are applicable to this litigation.

"We hold that by virtue of the provisions of that section the District Court has jurisdiction to entertain this action against the State. In so holding we do not reach, or intimate any view upon, any of the issues decided below, the merits of the controversy, or any defenses, constitutional or otherwise, that may be asserted by the State.

"Accordingly, the judgments of the Court of Appeals and the District Court will be vacated, and the case remanded to the District Court for the Middle District of Alabama with instructions to reinstate the action as to the State of Alabama, and for further proceedings consistent with this opinion."

From these facts it is clear that the statute was passed for a particular purpose, i.e., to fill a vacuum caused by the fact that there were no registrars having jurisdiction over Macon County, Alabama. Under settled principles of constitutional law, this departure from traditional constitutional principles would be held to apply only to the circumstances and conditions which lay behind the Court's holding. We do not have such a situation here. The registrars [fol. 3069] are all available and full relief can be had against them, and the dismissal of the State from the controversy will be in no wise prejudice the granting of the relief sought.

For the reasons stated we think that the proper course here is to grant the motion of the State to dismiss on the ground that the complaint fails to state a claim against it upon which relief could be granted.

[fol. 3070]

VI

The State Board of Election Commissioners is, by statute composed of the Governor, the Secretary of State, and the Attorney General of the State of Mississippi. § 3204, Mississippi Code of 1942, Annotated. The duties of these Commissioners are comprehensively prescribed and particularized by statute. § 3209.6 Mississippi Code of

1942, Annotated. We have examined the Complaint in detail without finding any fact allegation that these Commissioner Defendants did in any way enforce any of the statutes under attack, nor is any fact allegation made that their actions enforced a denial of registration to any otherwise qualified applicant because of the race or color of the applicant or for any other reason.

No choice is given to the State Election Commission in the selection of County Registrars, that duty arising only in the extreme situation where they have reached the determination that the duly elected Circuit Clerk is an "improper" person. They have no control over the tenure or actions of the Circuit Clerk as Registrar once they have appointed him as required. They are rigidly regulated as to the type of registration forms they must prepare. The statutes make it plain that they are more conduits through which a minor part of the registration process is required by statute to flow. The State Election Commissioners are not charged in the Complaint with promulgating any form or with appointing any Registrar otherwise than in accordance with their duties under the statutes relied upon by Plaintiff. These statutes are not under attack in this case. Considering the Complaint and any set of circumstances which could be proved under its allegations, we cannot visualize how an injunction could issue against the State Board of Election Commissioners or any of its members individually, for they are not charged with enforcing or threatening to enforce any of the statutes under attack.³⁴ [fol. 3071] The presence of the State Election Commissioners as parties-defendant in this litigation nevertheless presents the rights of three additional defendants which must be recognized by way of pleadings, discovery procedures, objections to evidence, cross-examination of witnesses, presentation of evidence, and the many other trial procedures which, while time-consuming, are the due of every litigant under our system of judicial procedure.

Three-Judge courts constitute a unique burden on the

³⁴ See Federal Trade Commission v. Clarie Furnace Co., supra; Massachusetts Farmers Defense Committee v. United States, supra; and Kreage v. Ottinger, supra.

Federal Judiciary. To keep this burden to a minimum, the statutes vesting the right to call such courts to sit in judgment of constitutional challenges are to be strictly construed as a procedural technicality and not as a broad remedial social policy. See *Phillips v. United States*, 312 U.S. 246; *Stainback v. Ho Hock Ke Lok Po*, 336 U.S. 368; and *Kesler v. Dept. of Public Safety*, 369 U.S. 153.

Where, as here, parties are brought before such a tribunal who are not at all within the contemplation of the statutes attacked and who are not indispensable, necessary or proper parties to the determination of the issues in controversy, they should be dismissed in the interests of sound judicial administration as well as to spare the litigants themselves and the expense and inconvenience of a trial procedure. For these additional reasons, the motion of the State Election Commissioners to dismiss for failure to state any claim upon which relief could be granted should be sustained.³⁵

[fol. 3072]

VII

We are further of the opinion that the statutes of Mississippi make it plain that the County Registrar alone is charged with the enforcement of the statutes under attack here.³⁶

³⁵ What is here stated with regard to the State Election Commissioners would apply with equal force to the defendant, State of Mississippi, so long as the actual enforcement officials, the County Registrars, remained in office and subject to suit.

³⁶ Mississippi Code of 1942, Annotated, § 3212, entitled "Registrar to register voters," states:

"The registrar shall register on the registration books of the election district of the residence of such person anyone appearing before him, and being, upon examination, found, in compliance with Section 244 of the Constitution, as amended, and in compliance with Section 241-A of the Constitution of Mississippi to be entitled to be registered as an elector, upon such person taking and subscribing the oath required by

Complaint makes no charge of any conspiracy or any concert of action between any two or more of the individual county registrar defendants.³⁷ By Plaintiff's own interpretation, the Complaint charges no series of transaction or occurrences but, rather, individual enforcement by the separate Registrar Defendants of the statutes alleged to be unconstitutional and void. We cannot agree with plaintiff's contention that, if several unrelated officials of a State in-[fol. 3073] dependently applied the terms of a statute in the enforcement of their duties of office, all of such applications would constitute a single transaction or occurrence, or a series of transactions or occurrences within the meaning of Rule 20(a) of the Federal Rules of Civil Procedure.

In the absence of a charge of joint wrong-doing by the individual defendant registrars, we find no authority to continue the suit against them as a joint cause of action. Each act of registration or failure or refusal to register must, of necessity, take place separately and apart from every other act of registration or non-registration, even within the same county. The Complaint contains no allegation that any such act of registration or failure or refusal to register was a part of any transaction or occurrence concerned with similar acts in a separate county. The only nexus is the use of the same registration laws. This is insufficient to support a joint cause of action.

Section 242 of the Constitution of Mississippi; but persons who may be entitled to register under the provisions of Section 251 of the Constitution of Mississippi, who would be otherwise disqualified by reason of age, may take the oath as modified by that circumstance, and the subscription of the oath shall be by the elector writing his name in the proper column in the registration book.

³⁷ Registration to vote is an individual process of showing qualification or lack of qualification on a case by case basis. It cannot be the subject of class action relief. *Reddix v. Lucky*, 252 F.2d 930.

[fol. 3074]

VIII

If the plaintiff intended by its Complaint to state also a cause of action based upon a pattern and practice of individual racial discrimination by these defendants in the enforcement of the duties of their offices, such causes of action would be justiciable solely before a single district judge.

This Court has venue jurisdiction of the claims asserted against H. K. Whittington, the Registrar of Amite County, and against Wendell R. Holmes, the Registrar of Pike County, both of these defendants being residents of the Jackson Division of the Southern District. We do not agree with plaintiff's effort to consolidate the various counties with the idea that the acts of the several registrars may be pooled in determining whether there has been a pattern or practice under the terms of the statute. Those very terms recognize that each county in Mississippi is a separate unit for registration and must be so treated in every action against the registrar.

IX

The asserted right of plaintiff that the United States can maintain this action against one or all of the defendants is not sustained by the authorities upon which the plaintiff relies.³⁸

§ 2281 deals with three-judge courts, and we need spend no time in further discussion of that statute. The controversy limited, therefore, to whether the Congress could vest [fol. 3075] in the plaintiff the right claimed by it to maintain this particular action and whether § 1971 does, in fact, justify maintenance by the plaintiff of the action it has

³⁸ The complaint states that the Court has jurisdiction "under 42 U.S.C. § 1971(d), 28 U.S.C. § 1345, and 28 U.S.C. § 2281. Neither party makes any serious argument concerning § 1345, which vests district courts with jurisdiction of all civil actions "commenced by the United States, or by any agency or officer thereof *expressly authorized to sue by act of Congress*." The controversy revolves around the words in the statute which we have underscored.

brought. It should be borne in mind what is fairly stated in the complaint and the briefs of the plaintiffs and what its attorney categorically stated at the argument—that the sole object of this action is to have the Court declare the attacked sections of Mississippi's Constitution and statutes unconstitutional, and to substitute therefor the alternative suggestions set forth in the complaint; the plaintiff specifically disavowing any desire or purpose to seek any relief based upon discrimination. This is further verified by the four claims stated *supra* in plaintiff's own language.

It is elementary that all federal jurisdiction is statutory unless the Constitution itself confers it. And the existence of federal jurisdiction must be shown clearly, and it must be denied if there is doubt about the constitutionality of the grant of jurisdiction. In *Screws v. United States*, 325 U.S. 91, the court was able to save what would otherwise have been an unconstitutional grant by surrounding the jurisdiction by narrow limitations.

The only claim asserted by plaintiffs which has any show of merit is that this action is maintainable under 42 U.S.C. § 1971(d), which has been quoted *supra*. That subsection must be considered in the light of the one immediately preceding it: "Whatever, in a proceeding instituted under this subdivision any official of the state or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section . . ." The provision of subsection (a) to which reference is made is in these words: "(a) All citizens of the United States *who are otherwise qualified by* [fol. 3076] *law to vote in any election by the people in any State, Territory, district county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color,*" notwithstanding the Constitution, laws, custom or usages of the state.

These words from subsection (a) plainly state that the United States may intervene in aid of any person of color, *provided that person is "otherwise qualified by law to vote at any election by the people in any state . . ."* (Emphasis added.) The meaning of these provisions seems perfectly clear. The United States may institute proceedings for pre-

ventive relief, provided a state officer is threatening or attempting to deny him the right of voting in a federal election; and provided also he has "the qualifications requisite for electors of the most numerous branch of the state legislature." *Then, and only then, could the United States come to the rescue* of one of its citizens whose right to vote was challenged. In that event, the Attorney General was empowered to bring an action for preventive relief.

The complaint here fails to show that those circumstances existed. This action seeks no relief for any citizen who is qualified under the laws of Mississippi to vote for electors of the most numerous branch of Mississippi's legislature. This action seeks solely to have the Court declare unconstitutional most of the most numerous branch of its Legislature. It constitutes a massive scatter-gun attack against the many important provision of Mississippi's Constitution and statutes. There is no intimation that § 1971, as a whole or as to any part of it, vests such a right in the United States itself. § 244 was placed into the organic [fol. 3077] law of Mississippi by its people in convention assembled after the confusion and frustrations of twenty years of the Tragic Era had subsided enough for its citizenship to bring a semblance of order out of chaos. The people themselves, through their elected convention, placed that section in the Constitution.

The other constitutional provisions attacked by the plaintiff entered the Constitution of Mississippi by the direct vote of the people. The symmetrical statutory structure for carrying out the constitutional mandates was worked out and duly passed by the legally constituted legislatures of the state. § 1971 does not invest the United States or its Attorney General with any power to bring any action to destroy any state's constitution or laws.

It is clear that § 1971 contemplated and envisioned the existence of state requirements for voting which did not on their face discriminate because of race or color. The operative language is "all citizens of the United States who are otherwise qualified by law to vote." This presupposes the existence of valid state requirements for voting. There is no provision of the Constitution of a statute of Mississippi which deprives any citizen of the right to vote because of race or color.

It is equally clear that this effort of the United States to invalidate the state voting requirements here involved is outside the scope of the Fifteen Amendment to the Constitution, which has been repeatedly held to be the sole basis of § 1971 (a). *United States v. Reese*, 92 U.S. 214, and *Guinn v. United States*, 238 U.S. 347.

Guinn involved a constitutional provision of Oklahoma, which set up a registration requirement for voting, but provided that this requirement should not be applied to any person who was, on January 1, 1866, qualified to vote or to [fol. 3078] the lineal descendant of such person. The Supreme Court found this constitutional provision on its face to be in conflict with the Fifteen Amendment, since it was well known that no Negroes were qualified to vote in Oklahoma on January 1, 1866. This brief quotation from the decision in *Guinn* (238 U.S. 347, at 362) will suffice to demonstrate the attitude of the court then and now:

"Beyond doubt the amendment does not take away from the state governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of state and national authority under the Constitution and the organization of both governments rest would be without support and both the authority of the nation and the State would fall to the ground. In fact, the very command of the Amendment recognizes the possession of the general power by the State, since the Amendment seeks to regulate its exercise as to a particular subject with which it deals . . . Thus the authority over suffrage which the States possess and the limitation which the Amendment imposes are coordinate and one may not destroy the other without bringing about the destruction of both."

Language of identical import is found in *Reese* (92 U.S. 217-218).

The first sentence of subsection (c) of § 1971 is the one which grants the Attorney General the power to institute [fol. 3079] certain proceedings under certain circumstances: "Whenever any *person* has engaged or there are reasonable grounds to believe that any *person* is about to

engage in any act or practice which would deprive any other person of any rights or privileges secured by subsection (a) or (b) of this section." The plain meaning of that part of subsection (c) is that Congress vested the Attorney General with power to seek injunctive relief against state election officials acting under color of law when said officials should deny a person "otherwise qualified to vote" of the right to vote because of race or color.

Assuming, therefore, that § 1971 does empower the United States, through the Attorney General, to assist legally a person who meets all the other qualifications of Mississippi law, who is being discriminated against because of his color, the statute does not tend to support the action here, which is not based upon discrimination, but upon the asserted fundamental unconstitutionality of the entire structure of Mississippi law providing voter qualifications. Under these circumstances the least this Court can do is to avoid a doubtful constitutional construction and to dismiss the action because it is not brought under any power given by the statute relied on, but is a direct attack by the Indestructible National as such, and is against the Indestructible State as such. And, moreover, it is an attack against a state aimed at destroying its action in a field committed exclusively to it by the Constitution; to-wit, the state's power to determine and define the qualifications of the electors who may vote not only in state elections, but in federal elections as well.

[fol. 3080]

X

Article I, Section 2 of the Constitution provides that representatives shall be "chosen every second year by the People". It further provides that "the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature". These simple words contain the only requisite provided for the selection of those persons who shall vote in federal elections.³⁹

³⁹ Volume 49, No. 19, 1963, of the American Bar Association Journal contains an excellent article on "Free Elec-

As pointed out by Dr. Ritz, the very simplicity of this language of the Constitution might tend to suggest casualness of draftsmanship. He promptly points out, however, that such was not the case, suggesting that the records of the convention, as discussed in Farrand, show that it was deeply concerned with problems relating to the election of the Federal Government, adopting a plan for the indirect election of the President and Vice President by use of an electoral college. The convention provided: "Each state shall appoint in such manner as the legislature thereof [fol. 3081] may direct, a number of electors . . .", thereby leaving the method of selection and qualifications to the states, although Congress was authorized to establish the time of their choosing.

On May 29, 1787, in presenting the resolutions known as The Virginia Plan, which provided the basic framework of the Constitution, Edmund Randolph proposed a national legislature to consist of two branches, the members of the first to be elected by the people of the several states, and the members of the second to be elected by the first branch from persons nominated by the state legislatures. The national executive was to be elected by the national legislature.⁴⁰

On May 31, sitting as a committee of the whole House, the convention approved the resolution calling for a national legislature to consist of two branches, and then considered and debated the resolution calling for election of

tions and the Power of Congress Over Voter Qualifications." Therein is reproduced the paper by Dr. Wilfred J. Ritz, Professor of Law, Washington and Lee University, which won first place in the 1962 Samuel Pool Weaver Constitutional Law Essay Competition conducted annually by the American Bar Foundation.

We draw extensively from this paper in this portion of the opinion. Dr. Ritz cited many times from Farrand, "The Records of the Federal Convention of 1787," 4 Vols. (Rev. ed. 1937).

While the article deals alone with the power of Congress, most of its contents apply equally to the Courts.

⁴⁰ 1 Farrand 20-21, 27-28.

the first branch by the people, adopting it by a vote of six states to two, with two states divided.⁴¹

A few days later the convention reconsidered and again upheld popular election, this time by a vote of eight states to three.⁴²

[fol. 3082] During consideration of The New Jersey Plan, still another attack on popular election was narrowly defeated, then another motion to reconsider was voted down by six states to four, with one divided.⁴³

As Dr. Ritz points out, on page 950 of the A.B.A. Journal for October, 1963, various aspects of the provision were debated with care until, finally, the provision was passed without any state dissenting. The debate on the qualification of voters was thus ended. On August 9th, the convention granted to Congress the power to supersede state regulations *as to the time, place and manner of holding elections*. The debate shows that it was pointed out that the provision *had nothing to do with voter qualifications*.⁴⁴

On September 8th, the convention named a committee of style, which made only one change which was adopted by the convention denying Congress any power over the place of election of senators. The provisions relating to elections were adopted and became part of the completed Constitution.⁴⁵

The article further points out that the Seventeenth Amendment ratified in 1913, providing for the popular election of senators, follows the pattern set forth in the original Constitution by providing that the electors in [fol. 3083] each state shall "have the qualifications requisite for electors of the most numerous branch of the state legislatures".⁴⁶

It further states that, except for the Fifteenth and Nineteenth Amendments, which place restrictions on the quali-

⁴¹ 1 Farrand, 46, 47-50, 54-55, 46, 60.

⁴² 1. Farrand 118, 124, 130, 132-138, 140-141, 142-144, 145, 147.

⁴³ 1 Farrand, 353, 358-360, 364-365, 367, 368.

⁴⁴ 2 Farrand 229, 239-242, 244.

⁴⁵ 2 Farrand 651, 653.

⁴⁶ Vol. 49, No. 10, A.B.A.J. page 951.

fications the states may require of electors for state officials and so, indirectly, become limitations on the qualifications as defined in the original Constitution, "Otherwise, there are no constitutional restrictions on the qualifications the states may require of electors for state officials, and so also of electors of federal officials."⁴⁷

The article refers also to the "Poll Tax Amendment," emphasizing that it departed from the pattern of previous amendments in that a state is permitted to establish a different qualification for electors to the most numerous branch of its own state legislature than the state can establish for the election of federal officials. But the elimination of that qualification could be done by constitutional amendment alone.

It is clear, therefore, that in the ratification of the Seventeenth Amendment and of the Poll Tax Amendment, the Congress of the nation and the people have affirmed in this century that the power to establish or change the qualifications of electors for federal officials can be accomplished by constitutional amendment alone.

Dr. Ritz' estimate of the constitutional scheme for establishing the qualifications of electors for federal officials is thus stated at the conclusion of his article:⁴⁸

"... For this reason, the Constitution establishes the qualifications of electors for federal officials by a readily ascertainable and completely objective standard. This objective standard is beyond the power of the Federal Government to change, except by going to the states and the people to seek a change through the process of constitutional amendment. History demonstrates that when a change has been needed, the necessary constitutional amendments have been forthcoming. . . ."

The decisions of the Supreme Court teach a similar lesson. *Slaughterhouse Cases*, 83 U.S. 36; *Minor v. Happersett*, 88 U.S. 162; *United States v. Reese*, supra; *United States v. Cruickshank*, 92 U.S. 542; *Ex Parte Yarbrough*,

⁴⁷ Id.

⁴⁸ 49 A.B.A.J., No. 10, page 954.

110 U.S. 651; *Swafford v. Templeton*, 185 U.S. 487; *Guinn v. United States*, 238 U.S. 347; *Newberry v. United States*, 256 U.S. 232; *Breedlove v. Suttles*, 302 U.S. 277; *Lassiter v. Northampton Board of Election*, *supra*.

XI

At the risk of tedium, we feel that we ought to discuss briefly the provisions of Mississippi's Constitution and statutes which plaintiff could strike down. We find each of them to be within the power of the State and to be reasonable and valid. For convenience, we copy at this point in [fol. 3085] the margin the language of §§ 244 and 241(a) of the Constitution.⁴⁹ Attack is made also upon sixteen

⁴⁹ "Section 244. Every elector shall, in addition to the foregoing qualifications be able to read and write any section of the Constitution of this State and give a reasonable interpretation thereof to the county registrar. He shall demonstrate to the county registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government.

"The person applying to register shall make a sworn, written application for registration on a form to be prescribed by the state board of election commissioners, exhibiting therein the essential facts and qualifications necessary to show that he is entitled to register and vote, said application to be entirely written, dated and signed by the applicant in the presence of the county registrar, without assistance or suggestion from any person or memorandum whatever; provided, however, that if the applicant is unable to write his application by reason of physical disability, the same, upon his oath of such disability, shall be written at his unassisted dictation by the county registrar.

"Any new or additional qualifications herein imposed shall not be required of any person who was a duly registered and qualified elector of this state prior to January 1, 1954.

"The Legislature shall have the power to enforce the provisions of this section by appropriate legislation."

"Section 241-A. In addition to all other qualifications

statutory enactments published in the Mississippi Code of 1942. We will not copy or refer to those at this point beyond this mention of them, but will bring forward the gist of the statutes as they are discussed.

[fol. 3086] It is appropriate at the outset of this portion of the opinion to set forth the basic principles which have guided the court in reviewing questions presented by the motion to dismiss:

"The cardinal principle of statutory construction is to save and not destroy . . . as between two possible interpretations of a statute, by one of which it would be unconstitutional and by the other valid, our plain duty is to adopt that which will save the act. Even to avoid a serious doubt the rule is the same."⁵⁰

Courts should consistently seek an interpretation of a statute which supports constitutionality and avoid, where possible, holding that the statute is vague or indefinite.⁵¹

When the terms of a statute are unambiguous the court may not, in construing it, speculate on probabilities of the intention of Congress.⁵² The legislative history of an unambiguous statute is immaterial.⁵³

[fol. 3087] "The plain words and meaning of a statute cannot be overcome by a legislative history which, through strained process of deduction from events of

required of a person to become entitled to register for the purpose of becoming a qualified elector, such person shall be of good moral character.

"The Legislature shall have the power to enforce the provisions of this section by appropriate legislation."

⁵⁰ National Labor Relations Board v. Jones & Laughlin Steel Corp., 301 U.S. 1, 30.

⁵¹ United States v. National Dairy Products Corp., et al, 372 U.S. 29.

⁵² Merchants Insurance Co. v. Ritchie, 5 Wall. 541.

⁵³ United States v. McKesson & Robbins, Inc., 351 U.S. 305; United States v. Oregon, 366 U.S. 634.

wholly ambiguous significance, may furnish dubious bases for inference in every direction.”⁵⁴

With these principles in mind we have examined the provisions of the constitutional and statutory sections here challenged to determine if they are ambiguous or uncertain. We find them to be plain, simple and straight-forward. Their meanings and intention are transparent and completely unambiguous. We have, therefore, determined that their constitutional status cannot be changed by delving into supposed legislative intent, history or purpose.

It is likewise true that the method of application or administration of the statutes cannot affect the validity or invalidity of the statutes themselves. In *Giles v. Harris*, 189 U.S. 475 at 487, the Supreme Court stated:

“If the sections of the constitution concerning registration were illegal in their inception, it would be a new doctrine in constitutional law that the original invalidity could be cured by an administration which defeated their intent.”

The reverse effect has also been negated:

[fol. 3088] “A statute may not be held void because of the action of an executive officer in applying its provisions. Even when there is an abuse of executive power against which the courts cannot relieve because of their inability to control administrative discretion, the act of Congress under which the action is taken is not rendered invalid any more than it is by action which is absolutely unauthorized.”⁵⁵

⁵⁴ *Gemsco, Inc. v. Walling*, 3 - - U.S. 244, at 260. Cf. *Davis v. Schnell*, 81 F. Supp. — 72, 878:

“When a word or phrase in a statute or constitution is ambiguous, it is the duty of the court, in construing the meaning of the word or phrase, to attempt to determine whether an exact meaning was intended and if so to ascertain what meaning.” (Emphasis added.)

⁵⁵ *Duke Power Co. v. Greenwood County*, 91 F.2d 665, 672; Affirmed 302 U.S. 485.

Indeed, any other method of statutory interpretation would permit members of the Executive Branch, at will, to make or unmake legislative enactments. We do not hold that arbitrary or discriminatory administration of a law which is valid on its face will not give rise to a right of action against the offending enforcement official; rather we limit our holding to the determination that such administration cannot change the constitutional status of the law on its face.

XII

The analysis of the Complaint required by the motions before us should properly begin with a consideration of the validity of Section 244 of the Mississippi Constitution. This same section in its present form was before this Court in *Darby v. Daniel*, 1958, 187 F. Supp. 170, from which no appeal was taken. We could very well fashion our opinion at this point by literally rescripting Sections I and II from this opinion, but such a procedure would be needlessly [fol. 3089] prolix. Suffice is to say that we adopt those two sections as our opinion here upholding the constitutionality of Section 244 on its face.⁵⁶ The authorities there cited are still completely valid support for the points made. The fact that plaintiff there was required to follow the administrative remedies available to him does not detract from the logic or correctness of the court's constitutional holding, which we approve as controlling the identical questions here presented.

Since the date of the *Darby* decision, the Supreme Court of the United States has again placed its stamp of constitutional approval on the use of a literacy test as a permissible voter qualification requirement. *Lassiter v. Northampton County Board of Elections*, 360 U.S. 45. The court there stated:

"The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. Literacy and illiteracy are neutral on race, creed, color, and sex, as reports around the world show. Literacy and intelligence are obviously

⁵⁶ Except for Subsection 4 of Section II, relating to newspaper exhibits, because that question is not before us here.

not synonymous. Illiterate people may be intelligent voters. Yet in our society where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise. Cf. *Franklin v. Harper*, 205 Ga. 779, 55 S.E.2d 221, appeal dismissed 339 U.S. 946, 70 S.Ct. 804, 94 L.Ed. 1361. It was said last century in Massachusetts that a literacy test was designed to insure an 'independent and intelligent' exercise of the right of suffrage. *Stone v. Smith*, 1959 Mass. 413-414, 34 N.E. 521. North Carolina agrees. We do not sit in judgment on the wisdom of that policy. We cannot say, however, that it is not an allowable one measured by constitutional standards.⁵⁷

In *Trudeau v. Barnes*, 65 F.2d 563, certiorari denied 290 U.S. 659, the Court of Appeals for the Fifth Circuit approved Louisiana's constitutional requirement embracing reading and interpreting its Constitution and that of the United States. However, on November 27, 1963, in the case of *United States v. State of Louisiana*, supra, a two-judge majority of a three-judge District Court panel hearing that case held that the *Trudeau* case no longer valid in the light of the decision in *Davis v. Schnell*, supra, and "the more recent cases." They also pointed out that the *Trudeau* court, perhaps because of the poor presentation of the case, did not have the "benefit" of evidence of discriminatory purpose and proof of "discriminatory affect" of the Louisiana interpretation test. We think this citation is invalid especially in view of the Supreme Court's holding [fol. 3091] in *Lassiter*.

We note, moreover, these differences between *United States v. Louisiana* and the case here presented, it being there contended:

⁵⁷ In Note 7 appearing at 360 U.S. 52, the court pointed out that 19 states have some sort of literacy requirement as a prerequisite to voter eligibility. Mississippi's requirements are among those fully described without adverse comment or observation.

1. The Louisiana Board of Registration has the power to remove *at will* any parish registrar of voters;
2. The parish registrar's whim alone determines who will be tested and who will be registered without testing;
3. No written records were made in most test cases, thus precluding the use of such records for check or review purposes;
4. The Louisiana Registrar is vested with "raw power;"
5. The test prescribed by Louisiana's law has no rational relation to a legitimate governmental objective; it vests unrestrained discretion in the Registrar; it is subjective, unreasonable and is *incapable* of equal enforcement.

Their opinion equates the Louisiana constitutional provision with Alabama's Boswell Amendment, which was condemned in *Schnell v. Davis*, 336 U.S. 933. For the reasons set out in *Darby* and because of the legal and factual differences noted above, we cannot agree that Mississippi's Section 244 presents the same questions.

The Louisiana three-judge opinion also places much emphasis on its conception of the difference between "literacy" and "understand" and "interpretation". The latter two phases are said to be words without definite meaning in the law and unlike the words "read" and "write". We cannot agree with the court's observations there. First of all, it seems clear to us that, when the Supreme Court stated "Literacy and intelligence are obviously not synonymous" in its opinion [fol. 3092] in *Lassiter* quoted above, it did not mean that tests which require a showing of comprehension, understanding on interpretation are not literacy tests. Rather, we believe the court there meant to demonstrate logically that an illiterate person could be intelligent, but that literacy was nevertheless a permissible standard for states to require of prospective electors. The dictionary defines the adjective "literate" as "instructed in letters; educated; specifically, able to read and write." It defines the noun "literate" as "one who can read and write." The transitive verb "read" is thus defined: "to go over, *especially*, with *apprehensive of the meaning of*, as characters or words; to take in the sense of, as of language, by interpreting the characters with which it is expressed. To utter aloud or render something written, especially so as to

give an interpretation of its significance. To interpret; to discover the meaning of." The transitive verb "read" is defined: "to persue or to go over *with understanding*." (Emphasis added.)

Literacy must necessarily include understanding if it is to be the meaningful requirement of voter qualification which the Supreme Court discussed in *Lassiter*. If literacy encompassed only the ability orally to pronounce the syllables of a grouping of letters, without a corresponding understanding or comprehension of their meaning, it would signify nothing. A person might look at a book or letter written in Spanish or French and have the ability to write off the words found there and to pronounce them orally, but if he knows nothing of the meaning or thought conveyed by those words, he cannot be said to be literate in Spanish or French. This reasoning draws added support by [fol. 3093] reference to 42 U.S.C. § 1971. In subsection (e) thereof the Congress recognized literacy *and* understanding as valid voter qualification requirements in two separate places in their directions to court appointed voting referees.⁵⁸

The lack of an effective review procedure is another significant difference between the Louisiana case and Mississippi's Section 244. In Section IV of the opinion in *Darby*, the court discussed in detail the machinery which Mississippi had at that time provided for reviewing decisions of the Registrar.⁵⁹ Since the *Darby* decision, the only change

⁵⁸ "Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court."

"The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee."

⁵⁹ A review procedure which the Court of Appeals of the Fifth Circuit, in *Peay v. Cox*, *supra*, characterized thus:

"The remedy is wholly administrative, simple, and cheap and ought to be exhausted plainly."

in the review procedure has been to require the County Election Commissioners to consider both oral and documentary evidence. The statute still provides that the hearing is *de novo*. As we pointed out in *Darby*, "The heart of Mississippi's [registration] machinery lies in the right of any person to appeal to the County Election Commission." [fol. 3094] We would call particular attention to the fact that the words of 42 U.S.C. § 1971(d) permitting recourse to this Court, without regard to whether the party aggrieved shall have *exhausted* administrative or other remedies, were also before the Court in *Darby*. Nowhere does the Bill of Complaint before us allege or aver that anyone who claims to have been denied the right to register even *began* the "simple," "cheap," administrative remedy open under Mississippi law, let alone pursued it or exhausted it.

For all of these reasons, we distinguish the case of *United States v. Louisiana*, *supra*, from the situation presented by the Complaint now before this Court. To the extent that its holdings may conflict with those here, we do not follow it.

Section 244 should be appraised in yet another way, as suggested by the Supreme Court in *Yick Wo v. Hopkins*, Sheriff, 118 U.S. 356. In that case, the court suggested a simple but effective test to determine if a statute or ordinance vests arbitrary power in the officer charged with its enforcement and administration. This test is as follows:

[In that case, persons who wish to operate laundries in wooden buildings were required to obtain the consent of the Board of Supervisors.]

"... if an applicant for such consent, being in every way a competent and qualified person, and having complied with every reasonable condition demanded by any public interest, should, failing to obtain the requisite consent of the supervisors for the prosecution of his business, apply for redress by the judicial process of *mandamus* to require the supervisors to con- [fol. 3095] sider and act upon his case, it would be a sufficient answer for them to say that the law had conferred upon them authority to withhold their assent, without reason and without responsibility."

Because of the result of the test, the court held the statute there under consideration to be purely arbitrary.⁶⁰

For sake of comparison, we call attention to the situation presented in *Schnell v. Davis*, supra, and the Boswell Amendment and its implementing statute requiring an applicant for voter registration to establish to the satisfaction of the Registrar that he or she was qualified. If we apply the mandamus test suggested by *Yick Wo*, we would have this situation: a fully qualified applicant request the court to mandamus the Registrar to place his name on the rolls. The Registrar could persist in his denial and resist the mandamus action by simply stating that he was not satisfied with the applicant's attempt to establish to him that he or she was qualified. This would be a complete answer to the mandamus proceeding without reason given and without further responsibility on the Registrar's part.

Under the provisions of Mississippi's Section 244, the situation is just the reverse. Here, if a qualified applicant [fol. 3096] has made a reasonable interpretation and been refused registration by either the Registrar or the County Election Commission, a mandamus action would most surely result in a requirement that the applicant be registered, because the question before the court would be: did the applicant give a reasonable interpretation?

Seeing no reason to depart from our opinion in *Darby v. Daniel*, we hold that Section 244 of the Mississippi Constitution is valid on its face and does not violate the Constitution or Laws of the United States.

⁶⁰ This opinion has proven confusing to a number of courts, as evidenced by their varied descriptions of its holding. A careful reading of the opinion discloses that the Supreme Court *did not* hold the municipal ordinance unconstitutional. They did order Yick Wo released and the criminal charge against him dismissed; but the basis for their ruling was because the arbitrary statute was found to have been applied by the Board of Supervisors in an unconstitutional manner.

[fol. 3097]

XIII

The Complaint next charges that Section 241-A of the Mississippi Constitution violates the Constitution of the United States. Good moral character is a prerequisite for admission to practice before the Supreme Court of the United States,⁶¹ the Court of Claims of the United States, and ⁶²United States Custom Court,⁶³ and each of the ten circuit Court of Appeals.⁶⁴ Good moral character is a prerequisite for naturalization.⁶⁵ Connecticut,⁶⁶ Alabama,⁶⁷ Georgia,⁶⁸ and Louisiana,⁶⁹ all require a prospective elector [fol. 3098] to be of good moral character or good character. In *Atkins*, supra, 323 F. 2d 733, the Court of Appeals for the Fifth Circuit approved the Alabama requirement of good moral character upon condition that a proper

⁶¹ Rule 5.

⁶² Rule 77.

⁶³ Rule 10.

⁶⁴ This variously appears in Rules 6, 7 or 8 of each of the Circuits except for the Fifth. In this Circuit, admission to practice before a District Court is required, and since this Mississippi district requires admission to the State Courts of Mississippi, this requirement is imported into the rules of the Fifth Circuit, at least for Mississippi practitioners in the Southern District,

⁶⁵ 8 U.S.C. § 1101, § 1427. It should be noted that although § 1101 sets out several criteria for determination of good moral character, it concludes with the statement: "The fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character."

⁶⁶ Chapter 143, Section 9-12, Gen. Statutes of Conn., Rev. 1958.

⁶⁷ Constitution, Section 180, Article 8, Constitution of 1901.

⁶⁸ Constitution, Section 2-704 (6398) Paragraph IV. (This is one of the alternative provisions for those who cannot read and write.)

⁶⁹ Constitution, Article VIII, Section I(c). See also La. Revised Statutes, Vol. 14, Ch. 1, Title 18, Section 31.

written examination is provided. The Mississippi statutes outlined supra provide very stringent requirements for such a hearing as to moral character. § 3217-01 through § 3217-14.

Mississippi presently requires good moral character of:

Taxicab Operators	§ 3495
Incorporators of Banks	§ 5156
Bank Examiners	§ 5164
Architects	§ 8632-09
Attorneys	§ 8654
Barbers	§ 8725
Dentists	§ 8755
Embalmers	§ 8782
Nurses	§ 8816
Optometrists	§ 8840
Pharmacists	§ 8848
Physicians	§ 8879
Podiatrists	§ 8896
Accountants	§ 8905
Veterinarians	§ 8914-07. ⁷⁰

Counsel have pointed out in argument that a majority of states require good moral character of applicants for licenses as architects, attorneys, barbers, engineers, medical doctors, undertakers and embalmers, pharmacists, real estate salesmen, veterinarians and public accountants. These are but a few examples of the wide use that the term [fol. 3099] has found in statutory situations where legislative bodies sought to extend privileges to those citizens whom it thought worthy of confidence and trust. We mention these instances to demonstrate that good moral character has found widespread acceptance as a concise and meaningful description of an attribute of a desirable citizen. It seems to us to be self-defining. Any attempt by the legislature to have written a definition applicable to all applicants for voter registration or for any of the licenses mentioned would undoubtedly have ended in a cumbersome, wordy enactment which could have added nothing to the

⁷⁰ All references are to sections of the Mississippi Code of 1942, Annotated.

inherent meaning of the words themselves and might well have detracted from their efficient and effective application.⁷¹

Requiring that applicants for registration as qualified electors be of good moral character is reasonable and is patently not discriminatory on the basis of race. We note that there is no allegation or charge that Negroes have bad moral character as a racial trait, even though such an allegation would not per se invalidate the enactment.⁷² It does discriminate—but in a way that is in nowise unconstitutional. It bars those of bad moral character of every race from becoming voters. While it is beyond this Court's prerogative to commend the enactment of such a measure, we do have authority to say that such an enactment is entirely within the constitutional competence of the people of the State of Mississippi. It is a regulation calculated [fol. 3100] to improve the quality of the electorate though it might curtail its number. This may justifiably be thought to be a pathway to better government.

The Complaint objects to this requirement on the ground that, since more whites than Negroes are now registered, the greater numerical impact will fall on Negroes. This statistical argument is without legal merit.⁷³ It also lacks logical merit. The provision applies equally to every *unregistered person* of every race, now and for all time to come. It does not partake of the invalidity detected in *Guinn v. United States*, 238 U.S. 347, and *Lane v. Wilson*, *supra*. These cases involved situations where the electorate had by law been *exclusively* white. The new regulations applied practically exclusively to Negroes because the exemption was extended to all registered whites and their posterity in perpetuity. In *Lane v. Wilson*, the court frankly discusses the problems of the amendment offered to cure this situa-

⁷¹ We agree with the court in *Raabe v. State*, 7 Ohio App. 119, when it stated that the phrase "good moral character" defines itself as accurately as the Legislature could define it by any other terms that it might employ along that line. Cf. *Petition of Gani*, 86 F. Supp. 683.

⁷² *Williams v. Mississippi*, 170 U.S. 213.

⁷³ *Williams v. Mississippi*, *supra*; and *Snowden v. Hughes*, *supra*.

tion solely in terms of the Negro race. The inevitable result of the provisions struck down was a racially discriminatory. It is not so here. This enactment applies to new white and Negro registrants alike.

If statistics of present voter registration as compared to census figures can create a climate that would make an otherwise wholesome and valid enactment void because of race discrimination, then every other requirement governing voting—whether newly enacted or covered with antiquity—would be similarly void on the same statistical [fol. 3101] basis. Each such enactment making *any* requirement for registration would necessarily affect more of one race than the other and thus under plaintiff's theory, be invalid. If the census figures are considered in the same sterile and unrealistic atmosphere, they demonstrate that race discrimination must be most flagrant in the states of the northern and midwestern portion of the nation because few, if any, Negroes can be found there.

Plaintiff contends that the good moral character requirement "facilitates" racial discrimination, but they do not say how, other than objecting to the lack of statutory definition. It seems to us that a legislative definition, which could constitutionally bear more heavily on some of the undesirable racial traits peculiar to the Negro as a racial group, might constitute just such a "facility" instead of avoiding it. It is our view that the words are sufficiently direct and plain to be self-defining.

[fol. 3102]

XIV

The Complaint next turns its attack to the statutory law of the State of Mississippi. It alleges that the provisions of the last paragraph of Section 3209.6 (and 3209.7), Mississippi Code of 1942, Annotated, are unconstitutional and void as being in conflict with an contrary to the requirements of Title III of the Civil Rights Act of 1960.⁷⁴ The provisions of this Act require election officers to retain certain voting records for a period of twenty-two months. The Mississippi statutes provide that, in cases where there is no appeal pending and where a particular application has

⁷⁴ 42 U.S.C. § 1971-1974c.

been waived or abandoned, "the registrar is *not required* to retain or preserve any records made under the provisions hereof."

If this statute were to be construed as requiring registrars to destroy records under the circumstances named, it would at most be in conflict with the Federal Statute (42 U.S.C. § 1974). It does not do so. The words "not required to retain" should not be interpreted to mean "permitted to destroy." With this construction the State statutes do not in any way conflict with the Federal enactment. If a registrar does not comply with the provisions of Title III, he cannot justify his noncompliance on the basis of any compulsion derived from the Mississippi Act. It must be construed as permissive only, since it is readily susceptible of that construction. In fact, we cannot see that it is susceptible of any other reasonable construction. [fol. 3103] These concluding paragraphs of Sections 3209.6 and 3209.7 are constitutional.

Section 3213 of the Mississippi Code of 1942⁷⁵ makes it mandatory that an applicant complete all blank spaces in the application form "properly and responsively" and sign the same, together with the required oath.

Section 3212.5 of the Mississippi Code of 1942⁷⁶ requires a registrar to endorse the word "passed" on the application form of qualified applicants, makes it the responsibility of the applicant to make inquiry to determine whether he or she has passed, and provides for the endorsement of the words "failed" or "not of good moral character" to be endorsed on unsuccessful application forms.

It is charged that these two sections "facilitate" racial discrimination by establishing formal, technical or inconsequential errors or omissions as grounds for disqualification. We do not agree. The registrar is required by the statutes to make this endorsement on all forms of all applicants without regard to race. The statute also makes it the responsibility of all applicants to make inquiry to determine the status of their application. Again, these challenges are unaccompanied by a fact allegation that the statutes are directed against a racial trait. The proper and

⁷⁵ House Bill No. 900, 1962 Session.

⁷⁶ House Bill No. 903, 1962 Session.

responsive completion by an applicant of a form is neutral on race, creed and color. The required endorsements can- [fol. 3104] not, in our opinion, constitute any facilitation of racial discrimination. If anything, they would hinder it by requiring a more complete record of the action taken by the registrar, which would be available in the event of a challenge to this action.

Another ground of invalidity involves the numerical effect of the statutes. We have previously discussed and rejected this ground as a vehicle by which unconstitutional deprivation may be established in connection with our discussion of the good moral character requirements of Section 241-A of the Constitution. We adhere to those same views here.

It is next contended that these statutes convert the application form into a hypothetical and unreasonable examination which constitutes an arbitrary restriction on the exercise of the "right to vote." It may be thought unnecessary to reiterate here the status of the Federal and State sovereignties in relationship to the right of suffrage, but it appears to us to be a matter of sufficient moment to warrant indulgence.

In *Minor v. Happersett*, 88 U.S. 162, the Court pointed out:

"For nearly ninety years the people have acted upon the idea that the Constitution, when it conferred citizenship, did not necessarily confer the right of suffrage."

In the case of *United States v. Reese*, 92 U.S. 214, the court stated:

"The Fifteen" Amendment does not confer the right of suffrage upon anyone."

In *McPherson v. Blacker*, 146 U.S. 1, it was stated:

[fol. 3105] "The right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the State."

In *Pope v. Williams*, 193 U.S. 621, the court stated:

"The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States . . . In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals in violation of the Federal Constitution."

As recently as *Lassiter v. Northampton County Board of Election Commission*, supra, the court stated:

"The states have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised."

We assume that the State of Mississippi must believe that the information required on its voter application forms is proper and necessary information to determine the qualified status of the applicant under its requirements. If it did not so believe, then the information should not be requested; but, believing it to be required, it seems to us that it is completely within its prerogative to demand that the form be properly and responsively completed and that the registrar make a full written record of his actions thereon. If it is an exacting examination, which we do not determine it to be, it is one which the statute requires to be administered without regard to race, creed or color. It is beyond [fol. 3106] the jurisdiction of this court to question.

We do not find that these statutes vest unlimited discretion or arbitrary power in the registrar. The words "properly" and "responsively" indicate to this Court a definite enough standard for intelligent and consistent application. The completion of the oath and signature also appear to be normal requirements on their face. No tricky application from is alleged or exhibited. If it does, in fact, operate to "trip" applicants into a disqualifying omission, it again operates indiscriminately of race or color. Even if we thought it were an unwise requirement, we cannot for that reason alone find it to be unconstitutional. After a

careful review of the statutes themselves in the light of all objections made, we are of the opinion that Section 3213 and Section 3212.5 of the Mississippi Code of 1942 are constitutional.

The next attack is made upon Section 3212.7 of the Mississippi Code of 1942⁷⁷ and Section 3217-01 through 3217-13 of the Mississippi Code of 1942⁷⁸. Section 3212.7 requires the registrar to publish the name and address of every applicant for registration to vote, for two consecutive weeks. The cost of such publication to be paid out of the general fund of the county. Fourteen days after the date of the last publication must be allowed by the registrar for challenge by any qualified elector of the county. After this period the registrar is required to proceed to determine the applicant's qualifications.

Sections 3217-01 through 3217-13 prescribe the procedure for challenges and hearings concerning any challenges made.

[fol. 3107] These two statutes are alleged to be unconstitutional because they vest power and authority in white citizens to harass Negroes. Even so, it is likewise that the statutes vest power and authority in Negro citizens to harass whites, in Negro citizens to harass Negroes, and in white citizens to harass whites. The choice as to whether to exercise the power conferred or not is one of purely private decision not subject to the mandates of the Fourteenth or Fifteenth Amendments. With regard to the contention that no objective standard is provided to limit the grounds of challenge, we disagree. The grounds are limited to the good moral character of the applicant and other requirements which the applicant must meet in order to be qualified to register to vote.

The challenge is made that the requirements are onerous, arbitrary and unreasonable. These challenges are directed to the legislature's wisdom in the enactment of the statute and not to any permissible grounds of constitutional objection. We do not see in the grant of authority to the registrar to take the matter of a challenge under advisement.

⁷⁷ House Bill No. 822, 1962 Session.

⁷⁸ House Bill No. 904, 1962 Session.

any unlimited power to forestall registration on a racial basis. Surely the statute contemplates and must be interpreted to require reasonable action on the part of the administrative officer in the discharge of the duties conferred upon him under the authorities previously mentioned.⁷⁹ We cannot presume that he will not correctly and impartially render each citizen his due.

Here again we have statutes whose wisdom we are not free to debate. The State of Mississippi could certainly feel that each community should be advised of the names and addresses of its members who seek the exercise of the [fol. 3108] franchise to control its political fate. It is certainly within the state's power to determine that additional solemnity and formality should be added to the act of application for registration. We are unable to say that the requirements of these statutes bear no reasonable relationship to a legitimate state interest. We, therefore, hold Section 3212.7 and Sections 3217-01 through 3217-13 to be valid and constitutional.

The Complaint might also be interpreted to challenge Section 3232 of the Mississippi Code of 1942⁸⁰ and Section 3209.6 of the Mississippi Code of 1942. Section 3232 was amended so as to eliminate the requirement for designation of the race of voters in county poll books. Section 3209.6, in addition to permitting destruction of records, was amended so as to make provision for the application form to contain a demonstration of good moral character.

In view of our ruling on the constitutionality of Section 241-A requiring good-moral character as a prerequisite to registration, we deem it unnecessary to discuss further the contentions of the Complaint as to the last Code section. As to the section requiring the elimination of the designation of race from the poll books, we could state categorically that the new statute is constitutional, but it would be further pertinent to observe that this appears to the Court to be a situation where the state could be thought to be on the "horns of a dilemma." If it left the designation of race a part of its requirements, it would be subject to criticism

⁷⁹ Cf. *Snowden v. Hughes*, *supra*.

⁸⁰ House Bill No. 901, 1962 Session.

for making a record of race where the race of the elector was immaterial. Now, having acted to remove reference to race, it finds itself criticized for having done so.

[fol. 3109] The Supreme Court, this term, held that a state statute⁸¹ requiring that, in all primary, general or special elections, the nomination papers and ballots shall designate the race of candidates for elective office, violates the equal protection and due process clause of the Fourteenth Amendment or the Fifteenth Amendment to the Constitution of the United States.⁸²

We hold Section 3232 and Section 3209.6 to be valid and constitutional.

In all of these statutory areas, we believe the question of validity must turn on a determination of the power of the state not its supposed secret intentions or presumed improper motives. In the light of our comments above, we believe that it would be no more fitting to inquire into the motive or object of the legislature than it would be to permit such an inquiry to be made as to the motives of the judges of a court for making a decision, or the executive branch for taking or withholding executive action in any given situation.⁸³ As Mr. Justice Black cautioned in the case of *Everson v. Board of Education of Ewing Township*, 330 U. S. 1:

"But we must not strike that state statute down if it is within the state's constitutional power even though [fol. 3110] it approaches the verge of that power. See *Commonwealth of Massachusetts*, Holmes, J., *supra*, 207 U.S. at 85, 88, 28 S.Ct. 26, 27, 28."

And see the discussion of this question in *Darby*, *supra*, 168 F. Supp. at pp. 176, et seq., and in *Palmer v. Ohio*, 248 U.S. 32; *Beers v. Arkansas*, 20 Howard 527; *Railroad Co.*

⁸¹ Louisiana Revised Statutes (1960 Supp.) § 18:1174.1.

⁸² *Anderson v. Martin*, Jan. 13, 1964, — U.S. —.

⁸³ *Fernandez v. Weiner*, 326 U.S. 320; *Sonzinsky v. United States*, 300 U.S. 506. See also the article and cases cited in Footnotes 21-23 of the opinion in *Darby v. Daniel*, *supra*.

v. *Tennessee*, 101 U.S. 337; and *Hans v. Louisiana*, 134 U.S. 1.

We would hardly feel that a proper sense of proportion was being observed if we did not draw out this already much too long opinion sufficiently to say that those who speak for the United States in this case do not propose to leave Mississippi's Constitution and statutes wholly unrecognized. After having importuned this Court to strike down substantially all which the people and the legislature have written during the tedious, sometimes tragic, years in which they have endeavored to maintain a government of laws, the representatives of this Indestructible Union here pray that this Court set up a substitute system of voting qualifications for Negroes, asking that we

"7. Order said defendants to register as a voter any Negro applicant for registration who possesses the following qualifications for registering to vote and none of the disqualifications as set forth in the Mississippi Constitution of 1890.

"(a) He is a citizen not less than twenty-one years of age;

"(b) He has been a resident of the state, county and election district for the period prescribed by Mississippi law;

"(c) He is able to read;

"(d) He has not been convicted of any disqualifying crimes enumerated in the Constitution and laws of Mississippi and is not insane."

The Complaint, as amended, thus fails to state a claim upon which any relief can be granted and should be dismissed with prejudice, and the relief prayed for should be denied. A judgment accordingly, with costs, will be entered.

/s/ Ben F. Cameron, Circuit Judge

/s/ William Harold Cox, District Judge

Judge Brown dissents and will, at a later time file a dissenting opinion.

Judge Cox concurs in the foregoing opinion and reserves the right, at a later date, to file a specially concurring opinion.

[fols. 3113-3123] IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, JACKSON
DIVISION

Civil Action Number 3312

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF MISSISSIPPI, ET AL, Defendants

JUDGEMENT—March 6, 1964

This Cause coming on for hearing and the Court of three judges having heard and considered same upon the motions of the Defendants to dismiss the action for failure to state a claim upon which relief can be granted; it is ordered, adjudged and decreed, upon on the grounds and for the reasons set forth in the opinion this day filed, that said motions to dismiss and each of them be and same hereby granted, and said action is dismissed at the cost of Plaintiff, United States of America.

Ordered, Adjudged and Decreed this 6th day of March, 1964.

Ben F. Cameron, United States Circuit Judge,
Harold Cox, United States District Judge.

From said judgment, Judge Brown dissents.

[fol. 3124] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action Number 3312

UNITED STATES OF AMERICA, Plaintiff,

VS.

STATE OF MISSISSIPPI, ET AL., Defendants

Before CAMERON and BROWN, Circuit Judges, and Cox,
District Judge.

BROWN, Circuit Judge, Dissenting—filed March 23, 1964.

In the opening bars, the Court¹ sounds the theme of a clash between the indestructible union and the indestructible state. The tone of indestructibility is good. For history tells us that no political institution is indestructible. If it is to survive, it must save itself from destruction. It [fol. 3125] is the peril of destruction which is what this case is all about. For no state, and no nation, can survive if, professing democratic rule of the governed, it flagrantly denies the voting right through racial or class discrimination.

The resulting facts are not in dispute. Mississippi must candidly admit that no more than 5% of its adult Negro citizens are registered to vote. This means that public rule comes from the 67% of white adults who are. The contest is whether this is the result of a discriminatory state "Constitution, laws, customs, or usages" in violation of the Civil Rights Act, 42 USCA §1971(a).

¹ As discussion of court decisions, opinions, etc., inevitably calls for use of terms, such as "the Court," or "this Court," I refer hereafter to the Court's decision and opinion in the instant case as the majority. Likewise, by the abbreviation "Fifth Circuit," I refer to the United States Court of Appeals for the Fifth Circuit of which Judge Cameron and I are members.

That contest is a big one. It is no little controversy between one or more individual Negro voters and individual Registrars. It is between all Negro adults and the State. Indeed, it is between all citizens of the United States and the State. In that setting, it is fitting that the protagonists appear to be what they really are—the United States and the State of Mississippi. The decisive question is, therefore, whether the United States may maintain this suit and whether it may be maintained against the State of Mississippi. Once that is decided, nearly everything falls into place, or becomes a matter [fol. 3126] of superficial consequence.² Once that is established, even the sketchy analysis enforced by time³ will demonstrate two things. First, in dismissing the complaints for failure to state a claim, F.R.Civ.P. 12(b), the majority ignores settled principles of federal procedure. Second, on application of correct principles the Government's complaint and the supplemental showing by answers to interrogatories is more than adequate to demonstrate that the Government might prevail in whole or substantial part.

Such consideration of the constitutional attacks will also expose the majority's fundamental misconception of the nature of the Government's suit. It is not, as the majority repeatedly emphasizes, one attacking the statutes on their *face*. Nor is it one seeking relief because statutes

² See, for example, dismissal of the State Board of Election Commissioners (the Governor, Secretary of State, Attorney General) majority opinion Part VI; misjoinder of causes of party defendants, Part VII; lack of jurisdiction over person of three registrar defendants, Part VIII; improper venue as to one registrar defendant, Part VIII; or necessity for separate trials as to each registrar to obtain a pattern or practice, finding and remedy, Part VIII.

³ In publishing its opinion without awaiting time for preparation of this dissent, the majority presumably thought it desirable that this case reach the Supreme Court along with, or at least not too long after, the appeal in *United States v. State of Louisiana*, D.C.La., 1963, (3-Judge) 225 F.Supp. 353-403. I would agree with this objective.

valid on their face, and valid in fact, are being discriminatorily applied.

[fol. 3127] Discrimination is, to be sure, an important element of the Government's thesis. But the discrimination sought to be proved, both in practice and in result, has a far greater function. For the Government's theory—which it seeks an opportunity to establish factually—is simply this: The underlying Mississippi constitutional provisions and the implementing statutory law regulating registration of voters came into being—and are currently maintained—out of a purpose by the organized State to deny Negroes the right to vote by contriving a structure having the appearance of legality, but having known, built-in devices which would, and did, effectually deny or overwhelmingly discourage the Negroes' effort toward full citizenship. The immediate means—the understanding test—must be judged, both in its purpose and in its effect, by the segregated policy of education and the wide disparity in the quality and quantity of education afforded by Mississippi to its white and Negro children. Likewise, these registration enactments must be considered against the background of official State action denying an effective use of voting rights by Negroes fortunate enough to be registered. One interesting facet of this Grand Design is the speed and apparent effectiveness of the State's reflex to Federal Court decisions or congressional enactments which tend, or seem, to restore some small portion of the Negro citizens' rights.

[fol. 3128]

I

The United States May Sue

As I read Part IX, the majority declares that this character of broad attack may not be brought by the United States because it has not been "expressly authorized to sue by act of Congress." 28 USCA §1345. To avoid some supposed constitutional restrictions on the right of the national sovereign to authorize itself to sue in its own Courts to protect the rights of its citizens, the majority reads 42 USCA §1971(c) and (d) narrowly. This leads to the conclusion that although Congress has au-

thorized suits by the Government to protect identifiable individuals from actual or threatened discrimination by identifiable State officials in the administration of valid laws, the Government may not, under this statute, maintain a suit attacking the constitutionality of statutes or State constitutional provisions which bring about like discrimination, only wholesale. An odd reverse of the discarded notion that "The King Can Do No Wrong," it is a declaration that an indestructible nation can right only little wrongs, not big ones.

There are a number of answers which may be briefly put. First, I can conceive of no constitutional hazard. The Fourteenth and Fifteenth Amendments are ample [fol. 3129] resources if specific legislation is required. I would have considerable doubt that specific legislation is needed. Jurisdiction, as such, while always a threshold question, is here of no moment. Whatever might be the affirmative grant of jurisdiction, it is clear that Congress has not prohibited such suits. The proviso of 28 USCA §1345 is thus irrelevant, and the balance of the section imposes no requirement that a suit "commenced by the United States" be expressly authorized by an Act of Congress. This latter requirement is confined to suits commenced "by any agency or officer" of the United States.⁴ Whether in a given situation the United States has standing to sue on behalf of citizens may present a problem. But it does not go to the jurisdiction of the Court as is here supposed. And as to standing to sue in vindication of fundamental, vital rights of citizenship of a kind which Congress recognizes may be vindicated at the behest of a private person.⁵ I join with Judge Wisdom in United [fol. 3130] States v. City of Jackson, Mississippi, 5 Cir., 1963, 318 F.2d 1, 14-16; 320 F.2d 870. I would hold that, apart from the Fourteenth Amendment, the Commerce

⁴ 28 USCA §1345. "Except as otherwise provided by Act of Congress, the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by an agency or officer thereof expressly authorized to sue by Act of Congress."

⁵ 42 USCA §1983; cf. *Monroe v. Pape*, 1961. 365 U.S. 167, 81 S.Ct. 473, 5 L.Ed.2d 492.

Clause there, and the Fifteenth Amendment here, invest the national sovereign with the power to institute in its own Court appropriate judicial action "to promote the interest of all" by eradicating engrained official patterns of conduct which "collides with national policy as embodied in the Constitution." In *re Debs*, 1895, 158 U.S. 564, 15 S.Ct. 900, 39 L.Ed. 1092;⁶ *United States v. San Jacinto Tin Co.*, 1888, 125 U.S. 273 at 279, 8 S.Ct. 850, 31 L.Ed. 747; *United States v. American Bell Telephone Co.*, 1888, 128 U.S. 315, 367, 9 S.Ct. 90, 32 L.Ed. 450; *Sanitary District of Chicago v. United States*, 1925, 266 U.S. 405, 425-26, 45 S.Ct. 176, 69 L.Ed. 352.

But none of these problems exist here. Congress has laid down the substantive standard in §1971(a), has prescribed the machinery to effectuate such rights in §1971(c),⁷ and has invested the District Courts with jurisdiction by [fol. 3131] §1971(d). Under this structure whenever "any person," which includes the State, is engaging "in any act or practice which would deprive any other person of any right * * * secured by subsection (a) * * * the Attorney General may institute * * * in the name of the United States, a civil action or other proper proceeding for pre-[fol. 3132] ventative relief * * *." Here, of course, it is

⁶ As the Court pointed out, "*Debs* has been relied on as a basis for standing in three recent cases in this Circuit: *United States v. Lassiter*, W.D.La., 1962, 203 F.Supp. 20, aff'd 371 U.S. 10, 83 S.Ct. 21, 9 L.Ed.2d 47; *United States v. Klans*, M.D.Ala., 1961, 194 F.Supp. 897; and *United States v. City of Montgomery*, M.D.Ala., 1962, 201 F.Supp. 590." 318 F.2d 14.

⁷ 42 USCA §1971(c). The portion here under discussion was Civil Rights Act of 1960, §601(b), 74 Stat. 90, and the section now reads: "(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventative relief, including an application for a permanent or temporary injunction, restraining

categorically alleged that the State of Mississippi and the other named defendants are depriving adult Negro citizens of Mississippi "who are otherwise qualified by law to vote" of their right to "be entitled and allowed to vote * * * without distinction of race, color, * * *." Of course, the phrase "who are otherwise qualified by law to vote" is important. Injunctive relief or the benefits of the referee machinery, §1971(e), extend only to those "otherwise qualified." But to read it as narrowly as does the majority would make the statute ineffectual and virtually useless. "Otherwise qualified" simply means that had there been either (a) no invalid statutory provision or (b) no discrimination in the application of a valid statute, the applicant would have fulfilled substantively all of the applicable legal requirements for voting.

Without a doubt the Government can be the adversary to champion the rights of its citizens who are the victims of state discrimination, *United States v. Raines*, 1960, 362 U.S. 17, 27, 80 S.Ct. 519, 4 L.Ed.2d 524, 533,* and it may [fol. 3133] be done when the discrimination comes from

order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State."

* "It is urged that it is beyond the power of Congress to authorize the United States to bring this action in support of private constitutional rights. But there is the highest public interest in the due observance of all the constitutional guarantees, including those that bear the most directly on private rights, and we think it perfectly competent for Congress to authorize the United States to be the guardian of that public interest in a suit for injunctive relief." 362 U.S. 17, at 27.

rank partiality in administrative practices. *United States v. Lynd*, 5 Cir., 1962, 301 F.2d 818; 1963, 321 F.2d 26, cert. denied, 1964, — U.S. —, — S.Ct. —, 11 L.Ed.2d 416 [No. 576, January 6, 1964]. But in the broad language authorizing the Government to institute "a civil action or other proper proceeding for preventive relief, including . . . a permanent or temporary injunction, . . . or other order," there is no indication that Congress meant to impose any artificial restrictions because of the source of the discriminatory deprivation of voting rights. Discriminatory denial of voting rights, on a retail or wholesale basis, whether from discriminatory practice or invalid statutes, was to be attacked.

What is at stake is the right of disfranchised Negroes to parity of treatment so that the bare 5% of Negro registrants may approach equality with the 500,000 white registrants (67%). If—and to resolve the if a trial is sought—the disparity is due to discrimination,* there is [fol. 3134] nothing in the statute to compel the Government to pursue the tortuous snail's pace on behalf of individual voters in individual counties.

II

The State of Mississippi May Be Sued

The majority's conclusion that Mississippi may not be sued is a curious one. Beset by similar constitutional apprehensions, the majority—as it did in dealing with the right of the United States to sue—reads §1971(c) narrowly to avert a declaration of, unconstitutionality. But having done this, it comes out at the same place by holding that, the State being a perfect idealism, Congress may not constitutionally impute to it as its own act and

* A finding of discrimination was the end result in *United States v. Lynd*, 5 Cir., 1963, 321 F.2d 26, cert. denied, 1964, — U.S. —, — S.Ct. —, 11 L.Ed. 2d 416, earlier opinion 301 F.2d 818; and the District Court found, and the Fifth Circuit affirmed, the finding of flagrant, rank discrimination in *United States v. Ramsey*, 5 Cir., 1964, — F.2d — [No. 20596, February 20, 1964].

deed the actions of its official representatives. Thus is §1971(c)¹⁰ drummed out of the Act for all but that rare instance in which there are no personal officers to sue. [fol. 3135] The statute is plain and for this case it is plainly constitutional. Two things are accomplished by §1971(c). First, as a substantive matter, it declares that "any act or practice constituting a deprivation" of subsection (a) rights committed by "any official of a state or subdivision thereof" shall "be deemed that of the state." Second, it provides a procedural remedy to enforce that substantive right. It does this by prescribing two things: (a) the "state may be *joined* as a defendant"; and (b) if there is no person holding the office capable of being sued as a defendant to which the state may be *joined*, then "the proceeding may be *instituted* against the state." (Emphasis supplied.) Thus there is no room, or need for, statutory construction to determine when a state may be *joined* with other defendants. And assuming, as in *Atkins* and *Ramsey*,¹¹ the District Court may sometimes refuse relief against the state at the end of the trial, this is no reason for throwing out the state before the trial even begins.

A state has no general immunity from suit by the national sovereign. *United States v. Texas*, 1892, 143 U.S. [fol. 3136] 621, 642-646, 12 S.Ct. 488, 36 L.Ed. 285.¹² And Congress can prescribe the forum in which the suit is to be commenced as it has done in §1971(c) and (d). *Case v. Boles*, 1946, 327 U.S. 92, 97, 66 S.Ct. 438, 90 L.Ed. 552; *United States v. California*, 1936, 297 U.S. 175, 187, 56 S.Ct. 421, 80 L.Ed. 567; 28 USCA §1251(b)(2).

The fact that in the brief *per curiam* so heavily stressed

¹⁰ 42 USCA §1971(c) is set out in full at note 7, *supra*.

¹¹ *United States v. Atkins*, 5 Cir., 1963, 323 F.2d 733, 739; *United States v. Ramsey*, 5 Cir., 1964, — F.2d — [No. 20596, February 20, 1964].

¹² See also: *New York v. United States*, 1946, 326 U.S. 572, 66 S.Ct. 310, 90 L.Ed. 326; *United States v. Arizona*, 1935, 295 U.S. 174, 55 S.Ct. 666, 79 L.Ed. 1371; *United States v. Michigan*, 1903, 190 U.S. 379, 23 S.Ct. 742, 47 L.Ed. 1103.

by the majority, the Supreme Court in *United States v. Alabama*, 1960, 362 U.S. 602, 80 S.Ct. 924, 4 L.Ed.2d 982,¹³ did not affirmatively hold §601 constitutional is a far cry from either a holding of unconstitutionality or an expressed apprehension on constitutionality. What, and all, it did was to foreclose the inference that, in remanding the case to permit trial against the State, the Court silently passed on the issue. But in both *Dogan* and *Lynd*¹⁴ the Fifth [fol. 3137] Circuit, emphasizing the wide nature of the relief afforded by §1971 against voter discrimination, recognized that the remedy may run against the state as such.¹⁵ And the second *Alabama v. United States*, 5 Cir., 1962, 304 F.2d 583, aff'd, 1962, 371 U.S. 37, 83 S.Ct. 145, 9 L.Ed.2d 112, is highly significant. After a trial on the merits following the remand by the Supreme Court pursuant to §601, the District Court found discriminatory practices on the part of the voting registrars. Even though there were

¹³ Of this disclaimer, the Fifth Circuit in *Atkins*, supra, stated: "We follow the same course in the present case." 323 F.2d 733, 739, n.7.

But the Court earlier had stated: "It should be recalled that the State of Alabama is a party to this action and is responsible for the discriminatory acts and practices of the registrars. This is expressly provided for in 42 USCA §1971 (c) as amended by the Civil Rights Act of 1960, §601 (b)." 323 F.2d 733, 739.

¹⁴ *United States v. Dogan*, 5 Cir., 1963, 314 F.2d 767; *Kennedy v. Lynd*, 5 Cir., 1962, 306 F.2d 222, at 228, cert. denied, 371 U.S. 952, 83 S.Ct. 507, 9 L.Ed.2d 500.

¹⁵ In a series of proceedings instituted by the Attorney General under §1974(b) and (d) to obtain voter records, constitutionality has repeatedly been upheld against specific attack. In *re Dinkins v. Attorney General*, 5 Cir., 1961, 283 F.2d 430, approving and adopting *Alabama ex rel. Gallion v. Rogers*, M.D. Ala., 1960, 187 F.Supp. 848; *Kennedy v. Bruce*, 5 Cir., 1962, 298 F.2d 860; *United States v. Lynd*, 5 Cir., 1962, 301 F.2d 818; *Coleman v. Kennedy*, 5 Cir., 1963, 313 F.2d 867, cert. denied, 373 U.S. 950, 83 S.Ct. 1681, 10 L.Ed.2d 705; *Kennedy v. Owen*, 5 Cir., 1963, 321 F.2d 116; *Kennedy v. Lewis*, 5 Cir., 1963, 325 F.2d 210.

successor registrars as parties to the suit,¹⁶ the District [fol. 3138] Court rendered a decree against the State of Alabama. Additionally, on the basis of findings of discrimination, it declared that 54 specifically named applicants were to be registered. The Supreme Court affirmed this holding that the State was subject to orders against it and the form of relief granted was appropriate.¹⁷ Similarly, a direct injunction against the State of Mississippi was issued by the Fifth Circuit pending appeal in *United States v. Lynd*, 5 Cir., 1962, 301 F.2d 818, and affirmed after argument on the merits, 5 Cir., 1963, 321 F.2d 26.¹⁸

[fol. 3139] The majority's conclusion of unconstitutionality rests on what may best be described as the Eleventh Amendment dialectic. Underlying this approach is the literal extension of the philosophic discussions of political economy of the kind found in *Ex parte Young*, 1908, 209

¹⁶ Although the successor administrators were still parties, they were absolutely indifferent or noncommittal. 304 F.2d 583, at 588.

¹⁷ The District Court set up an elaborate policing machinery consisting of monthly reports to both the Court and the United States Attorney which were subject to verification by checks on the voting records by agents of the United States. 304 F.2d 583, at 584. Similar relief was prescribed by the Fifth Circuit in *United States v. Ramsey*, 5 Cir., 1964, — F.2d — [No. 20596, February 20, 1964].

¹⁸ The Court by separate unpublished order and findings in the proceeding for contempt held the Registrar Lynd in civil contempt for violations of the injunction pending appeal. Certiorari was denied, *Lynd v. United States*, 1964, — U.S. —, — S.Ct. —, 11 L.Ed.2d 416 (see *Lynd v. United States*, 32 U.S.L. Week 3214, No. 576). The civil contempt order also required that the registrar (a) immediately register approximately 40 named Negro applicants; (b) use specified sections of the Mississippi Constitution for the "understanding" test; (c) cease rejecting applications for errors if the person met the standards specified in the order; and (d) inform the applicant of the exact errors and deficiencies in the application.

U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714.¹⁹ (See Part V.) In this approach the State is regarded as an idealism, existing separate and apart from the human beings who carry out its functions, and wholly incapable of anything wrong or unlawful. Logically, when the State through the power of its instrumentality achieves an illegal, unlawful end, it has not been the State at all, merely individuals acting in excess of the maximum authority which might have been granted. This result then pushes the proponents into another fiction. Logically, of course, there would be no constitutional federal judicial redress against such "illegal" excesses since this would not be "State action" as the concept is used in the Fourteenth Amendment or in the implementing Civil Rights Acts. E.g., 42 USCA §§1983, 1971(a). Consequently, Mississippi concedes and the majority holds that these actions, if unauthorized, constitute [fol. 3140] State action. But admitting that this is State action to allow redress against the transgressing individuals, thereby overcoming the bar of the Eleventh Amendment under the *Ex parte Young* doctrine, the majority insists that it is not State action so as to be imputed to the State where Congress, unfettered by the Eleventh Amendment, expressly provides for suit by the national sovereign against the State.

Were this the inevitable consequence of fictions—useful as they are for solutions of some of the law's formal incongruities, cf. Douglas, J., dissenting in *Parker v. Ellis*, 1960, 362 U.S. 574, 595, 80 S.Ct. 909, 44 L.Ed.2d 963—a good deal of judicial history would have to be erased. Worse, it would close the courthouse to the resolution of conflicts between the national and state governments whether they concern ownership of offshore tidelands, *United States v. Texas*, 1950, 339 U.S. 707, 70 S.Ct. 918, 94 L.Ed. 1221, or interference with the orders of a Federal Court.²⁰

¹⁹ See also: *Ex parte Virginia*, 1880, 100 U.S. 339, 25 L.Ed. 676; *Cooter v. Aaron*, 1958, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5; *United States v. Raines*, 1960, 362 U.S. 17, 80 S.Ct. 519, 4 L.Ed.2d 524; *Poindexter v. Greenhow*, 1885, 114 U.S. 270, 5 S.Ct. 903, 29 L.Ed. 185.

²⁰ See *Mississippi v. Meredith*, 1963, 372 U.S. 916, 83 S.Ct. 722, 9 L.Ed.2d 723, granting motion of the United

[fol. 3141] This is not the case in which ordinary actions of Government officials perhaps in excess of authority are sought to be imputed to the State to make the State directly responsible therefor. Here the actions taken by individuals relate to a function which is governmental in nature and wholly unrelated to private, personal activity. For here every action relates to the elective process. Under no circumstances could any official, high or low, involved in the registration-elective process be regarded as a private person. Each " * * * takes its character as a state agency from the duties imposed upon it by state statutes; the duties do not become matters of private law because they are performed by * * * " a private person, *Smith v. Allwright*, 1944, 321 U.S. 649, 658, 663, 64 S.Ct. 757, 88 L.Ed. 987; *Terry v. Adams*, 1952, 345 U.S. 461, 73 S.Ct. 809, 97 L.Ed. 1152; *Baldwin v. Morgan*, 5 Cir., 1958, 251 F.2d 780, 790; 1961, 287 F.2d 750; at 754-55, n. 9; *Boman v. Birmingham Transit Co.*, 5 Cir., 1960, 280 F.2d 531, 535. By their structure and express provision, the Mississippi voter statutes reflect that the action of all is that of the State and the State alone.²¹

[fol. 3142] These principles are more than ordinarily applicable if the basic theory of the Government's suit is kept carefully in mind. Unlike those charging that Negro voters are deprived of constitutional rights because of discrimination in the administration of otherwise valid statutes, the thesis is here that these voter registration laws (and Constitution) are themselves invalid because, in their

States for leave to be named party respondent and denying certiorari from judgments holding the Governor and Lt. Governor of the State of Mississippi in civil contempt in proceedings instituted by the United States as amicus curiae-intervenor, *Meredith v. Fair*, *United States v. Mississippi*, 5 Cir., 1962, 313 F.2d 532; *Meredith v. Fair*, *United States v. Mississippi*, 5 Cir., 1962, 313 F.2d 534.

²¹ See, e.g., Miss. Code §3210.5: "The county registrar, while acting within his jurisdiction and under the authority of this act, shall not be liable personally for any error of judgment." And see also Miss. Code of 1942, §3230: " * * * Costs shall not, in any case, be adjudged against the commissioners or the registrar."

setting, they established a structure which was intended to, and in fact did permit effectual denial to the Negro of the right to vote, the final proof of which, being in the pudding's eating, is the disparate results of 67% vs. 5%. On such a theory, it is conceptually impossible for statutes (and constitutional provisions) to be anything other than States actions, as the State, by the State, and for the State. Everything under attack here—the understanding test, promulgation of the registration application form, the duty to fill it out without assistance, prohibition against advice concerning errors, the good moral character test, the right of citizen challenge—are all strictly prescribed in the Mississippi Constitution and statutes. Acts done thereunder are truly acts of the State, not merely State actions by individual persons.

[fol. 3143] Substantively, there can at this late date be no question of the constitutional power to charge the State directly for denial of voter rights accomplished by the statutory structure or its administration. Under §1971(a) the right is guaranteed to vote without distinction of race “ . . . any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.” Discriminatory State Constitutions and laws which were found to be unconstitutional in themselves have been voided by the Supreme Court pursuant to this subsection.²² *Guinn v. United States*, 1915, 238 U.S. 347, 355-56, 35 S.Ct. 926, 59 L.Ed. 1340; *Myers v. Anderson*, 1915, 238 U.S. 368, 35 S.Ct. 932, 59 L.Ed. 1349.

The rich experience in voter discrimination affords an ample basis for the conclusion that there is a reasonable connection between the congressional determination that

²² 42 USCA §1971(a) was designated Rev.Stat. §2004 when *Guinn* and *Myers* were decided. It is clear from the legislative history that 42 USCA §1971(c) imposes no substantive limits on the scope of the rights protected by §1971(a). Section 1971(c) provides an enforcement procedure to implement §1971(a) similar to that available by virtue of Rev.Stat. §1979 (now 42 USCA §1983) to enforce Rev.Stat. §2004. H.R.Rep. No. 291, 85th Cong., 1st Sess. 12 (1957).

in voting suits, the acts of local representatives of government may be deemed to be the acts of the State on the one hand, and the rights to be secured under the Fourteenth and Fifteenth Amendments on the other. The scope [fol. 3144] of congressional power under the Fourteenth and Fifteenth Amendments is surely broad enough for the adoption of any remedial legislation "necessary and proper for counteracting such laws as the states may adopt or enforce, and which, by the Amendment, they are prohibited from making or enforcing, or such acts and proceeding as the states may commit or take, and which by the amendment, they are prohibited from committing or taking." Civil Rights Cases, 1883, 109 U.S. 3, 14, 3 S.Ct. 18, 27 L.Ed. 835.

III

Majority Applies Incorrect Standards for Dismissal

While professing to follow the standards epitomized in *Conley v. Gibson*, 1957, 355 U.S. 41, 78 S.Ct. 99, 2 L.Ed.2d 80,²³ the majority commits a basic procedural error. It subjects the Government's complaint to tests no longer appropriate under the Federal Rules of Civil Procedure.

The majority is preoccupied with two things, each contrasting the other. Its approach emphasizes that the allegations must be of *facts*, as distinguished from *legal conclusions*. This becomes vital to its thesis since technically it is said the motion to dismiss admits only [fol. 3145] facts well pleaded.²⁴ But F.R.Civ.P. 8(a)(2) does

²³ See Majority Opinion, note 1 and accompanying text.

²⁴ In the instant case the Court unanimously overruled all motions of all defendants which sought to compel the Government to plead allegations of discrimination with factual specificity under F.R.Civ.P. 9(b) on the asserted theory that these were equivalent to charges of fraud. This ruling was clearly correct. *United States v. Lynd*, 5 Cir., 1963, 321 F.2d 26, 27, cert. denied, 1964, — U.S. —, — S.Ct. —, 11 L.Ed.2d 416; *United States v. Lynd*, 5 Cir., 1962, 301 F.2d 818, 822, cert. denied, 371 U.S. 893, 83 S.Ct. 187, 9 L.Ed.2d 125.

not require that facts be pleaded, only that the complaint "shall contain * * * (2) a short and plain statement of the claim showing that the pleader is entitled to relief * * *." Professor Wright points out that a

"Claim for relief stated in general terms and legal conclusions may be sufficient to inform the adversary and to withstand a motion to dismiss; * * * the sufficiency of a claim so stated is not tested by the strict standards once applied to determine whether a 'cause of action' was sufficiently stated." 1A Barron & Holtzoff, Federal Practice and Procedure §356, at 360 (Wright ed. 1960).

But I do not press this as a technical principle because the complaint charges discriminatory purpose and effect in the most positive, direct and simple terms. For example, after reciting factual, statistical and historical details in the first 15 paragraphs, it charges that "one of the chief purposes" of the newly adopted Constitution of 1890, [fol. 3146] " * * * was to restrict the Negro franchise and to establish and perpetuate white political supremacy and racial segregation in Mississippi." This was accomplished, the complaint charges, through the understanding clause. The complaint goes on to allege that later, under the stimulus of a decision of the Fifth Circuit²⁵ which construed Article 244, the "read *or* understand" provision, disjunctively and the 1954 school decision, an amendment was adopted requiring ability to read *and* understand. The effect of this was to subject the vast body of unregistered adult Negroes (numbering over 475,000) to new and stringent requirements to which the mass of white voters (numbering 500,000) had not been subjected. This amendment, it is alleged, was "designed to perpetuate in Mississippi white political supremacy, a racially segregated society, and the disenfranchisement of Negroes."

²⁵ Peay v. Cox, 5 Cir., 1951, 190 F.2d 122. This case is heavily stressed by the majority. See Parts V, n. 17, XIII, n. 59. The aspect of the case requiring a voter to exhaust administrative remedies has been legislatively overruled. 42 USCA §1971(d).

Similarly, in the "fourth claim" the complaint recites in detail the 1960-1962 efforts of the Government through the Federal Court proceedings to obtain voter registration records in Mississippi, and in other proceedings to enjoin discriminatory practices, chiefly in Forrest County.²⁶ [fol. 3147] After factually alleging developments in the court proceedings, the complaint goes on to state that to overcome specific provisions of the Fifth Circuit's injunctive order—especially those requiring assistance to Negro applicants on an equality with whites—the Mississippi Legislature enacted a package of laws.²⁷ These are alleged to be unconstitutional for a number of specific reasons. These include the unreasonable, arbitrary disqualification for formal, technical, inconsequential errors, "freezing in" white voters while "freezing out" unregistered Negroes by more stringent standards and requiring publication of the names of applicants, thus subjecting Negroes to harassment²⁸ by whites, etc.

[fol. 3148] Of course these serious charges cannot be brushed off as "legal conclusions." The majority takes a double tack to circumvent them. The first seems to be

²⁶ This battle was on many fronts. In *Kennedy v. Lynd*, 5 Cir., 1962, 306 F.2d 222, cert. denied, 371 U.S. 952, 83 S.Ct. 507, 9 L.Ed.2d 500, the Government sought, and after reversal in the Fifth Circuit, obtained the right to voter records under §1974(b). A few months earlier in *United States v. Lynd*, 5 Cir., 1962, 301 F.2d 818, the Fifth Circuit issued its own injunction which was affirmed after hearing on the merits, 5 Cir., 1963, 321 F.2d 26, cert. denied, 1964, — U.S. —, — S.Ct. —, 11 L.Ed.2d 416. Simultaneously the Fifth Circuit by order found Lynd in civil contempt. See note 18, *supra*.

²⁷ These were described as House Bill 900, amending §3213; H.B. 901 amending §3232; H.B. 905 amending §3209.6; H.B. 822, 904; H.B. 903.

²⁸ Cf. *N.A.A.C.P. v. Alabama*, 1958, 357 U.S. 449, 78 S.Ct. 1163, 2 L.Ed.2d 1488; *Bates v. Little Rock*, 1959, 361 U.S. 516, 80 S.Ct. 412, 4 L.Ed.2d 480; *Gibson v. Florida Investigation Committee*, 1962, 372 U.S. 539, 83 S.Ct. 889, 9 L.Ed.2d 929.

that the truth of these charges—i.e., discriminatory purpose and effect—is of no legal consequence since this goes to the motivation of legislation and this is a subject free from judicial scrutiny. If—and the if is a very tiny one—that ever were the law, *Gomillion v. Lightfoot*, 1960, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110, now makes it clear that unconstitutional racial discrimination gets no cloak of judicial immunity simply because the means used is State legislation. The supposed “motivation” of the legislators is no haven and affords no insulation from judicial inquiry.

The second seems to be that, assuming them to be legally significant, there are no possible evidentiary ways of establishing the truth of the charges. The majority reasoning in this facet seems to run this course. The Government by pretrial interrogatories from the defendants was required to state the exact factual basis for these charges, the witnesses to be used on the trial in support thereof, [fol. 3149] etc. The Government filed detailed responses and presumably put its best foot forward. Consideration of these materials by the Court reveals that these “facts” cannot be established since all of this is either hearsay or otherwise inadmissible.²⁹ In other words, the majority

Majority Opinion, Introduction 2, n. 1.

in concluding that no claim is set forth looks to interrogatories to establish that no claim can be *proved*. But on a motion to dismiss³⁰ under F.R.Civ.P. 12(b)(6), this may not be done: *Mullins v. DeSoto Securities Company*,

²⁹ The majority passes it off in this fashion:

“[We further find] that the interrogatories [have] been answered and sworn to by various attorneys for the plaintiff and set forth the results of their investigations and [are] made up of legal or factual conclusions from hearsay evidence or [are] otherwise inadmissible in evidence.”

³⁰ No motion for summary judgment was filed or granted so these materials do not become pertinent under F.R. Civ.P. 12(c) and 56(a).

5 Cir., 1943, 136 F.2d 55; *Kohler v. Jacobs*, 5 Cir., 1943, 138 F.2d 440; 2A *Barron & Holtzoff* §778, at 391.

This is far from saying, however, that the interrogatories are irrelevant at this stage. Quite to the contrary, once the proper standard is applied, these become the best proof that the Government has at least an arguable basis for establishing its claim on a trial. This brings us to the [fol. 3150] simple standard of *Conley v. Gibson*³¹ that "the accepted rule" is "that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Of this problem, the Fifth Circuit has said, "Final disposition of a civil action on the basis of bare bones pleading is a tortuous thing. How a standard so simply expressed, so often repeated, is apparently so often overlooked . . . is hard to understand. We have phrased and rephrased it in these terms. . . . A motion to dismiss for failure to state a claim should not be granted unless it appears to a certainty that the plaintiff would be entitled to no relief under any state of facts which could be proved in support of his claim . . . ' *DesIsles v. Evans*, 5 Cir., 1952, 200 F.2d 614, 615 . . . ' " *Arthur H. Richland Co. v. Harper*, 5 Cir., 1962, 302 F.2d 324, 325. Of course the principle is a series of negatives, each of which the movant (Mississippi) had to overcome. The complaint [1] "should not be dismissed . . . unless" [2] it is made to appear "beyond doubt" that the plaintiff [3] "can prove no set of facts" entitling him to relief. Apart from the notion [fol. 3151] of immunity of legislative motivation, now thoroughly discarded by *Gomillion v. Lightfoot*, *supra*, nothing in the majority opinion even remotely reveals how the defendants carried this burden. But I need not rest on concepts of burden since these interrogatories establish firsthand in great factual detail historic materials from which a trier can infer that these legislative-constitutional provisions came into being to provide the mechanism by which the Negro would be denied the right to vote and how—faithful to its conception—it has worked so well to achieve the present startling disparity. Testing

³¹1957, 355 U.S. 41, 46, 78 S.Ct. 99, 102, 2 L.Ed.2d 80.

the complaint from the restricted vantage of a motion under F.R.Civ.P. 12(b), the Court cannot at this stage make a blanket ruling against the admissibility of all of this material. Indeed, all, or nearly all, will be plainly admissible under the liberal approach of F.R.Civ.P. 43(a). *Dallas County v. Commercial Union Assurance Co.*, 5 Cir., 1961, 286 F.2d 388; *Monarch Ins. Co. v. Spach*, 5 Cir., 1960, 281 F.2d 401;³² *Hall v. St. Helena Parish School Board*,

IV

Abundant Likely Evidence to Establish Prima Facie Case

[fol. 3152] A consideration of a very small part of the material will illustrate the substantial basis for the Government's claim. This material both acquires a meaning from its setting and offers additional proof of that setting. This is vital as the Supreme Court, analyzing the holding in *Davis v. Schnell*, M.D.Ala., 3-Judge (81 F.Supp. 872, 1949, aff'd mem., 1949, 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093) which struck down an "understanding and explain" test had this to say. "The legislative setting of that provision and the great discretion it vested in the registrar made clear that a literacy requirement was merely a device to make racial discrimination easy." *Lassiter v. Northhampton County Bd. of Elections*, 1959, 360 U.S. 45, 53, 79 S.Ct. 985, 3 L.Ed.2d 1072. Of course a part of that setting is what the Fifth Circuit has de-[fol. 3153] scribed as the Mississippi "steelhard, inflexible, undeviating official policy of segregation." *United States*

³² This approach has effectually been adopted by the Special Committee on Evidence of the Judicial Conference of the United States in its Preliminary Study of the Advisability and Feasibility of Developing Uniform Rules of Evidence for the Federal Courts, 30 F.R.D. 73, 79 (1962). E.D.La., 1961, 197 F.Supp. 649 aff'd mem., 1962, 368 U.S. 515, 82 S.Ct. 529, 7 L.Ed.2d 521; *Davis v. Schnell*, S.D.Ala., 1949, 81 F.Supp. 872, aff'd mem., 1949, 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093; *Morris v. Harmer*, 1883, 32 U.S. 348, 351 (7 Pet.) (per Story, J.).

v. City of Jackson, Mississippi, 5 Cir., 1963, 318-F.2d 1, 5. The policy takes many forms. It "is stated in its laws."³³

³³ The policy finds frequent, formal and legislative expression. Emphatic is the Resolution of Interposition, Senate Concurrent Resolution No. 125, adopted by the Legislature of the State of Mississippi on February 29, 1956. See also Miss. Code of 1942, §4065.3 commanding that all employees of the State and its subdivision "be and they each of them, in their official capacity are hereby required" to give "full force and effect in the performance of their official and political duties to the Resolution of Interposition * * * and are further directed and required to prohibit, by any lawful, peaceful and constitutional means; the implementation of or the compliance with the Integration Decisions of the United States Supreme Court of May 17, 1954, * * * May 31, 1955, * * * and to prohibit by any lawful, peaceful and constitutional means, the * * * mixing or integration of the white and Negro races in public schools, public parks, public waiting rooms, public places of amusement, recreation or assembly in this State, by any branch of the federal government, any person employed by the federal government, any commission, board or agency of the federal government * * * and to prohibit, by any lawful, peaceful and constitutional means, the implementation of any orders, rules or regulations of any board, commission or agency of the federal government, based on the supposed authority of said Integration Decisions * * *. * * *. The prohibitions and mandates of this Act are directed to the aforesaid executive branch * * * and all individuals thereof in their official capacity only. Compliance with said prohibitions and mandates of this act * * * shall be and is a full and complete defense to any suit whatsoever in law or equity, or of a civil or criminal nature which may hereafter be brought against the aforesaid executive officers * * * or employees * * * by any person, * * * the State of Mississippi or any [fol. 3154] other state or by the federal government of the United States, any commission, agency, subdivision or employee thereof."

Part and parcel of this program is the State Sovereignty Commission, Miss. Code of 1942, §§9028-31-48 [Laws 1956]

It is rooted in custom."³⁴

[fol. 3155] The historical materials reveal that a policy

of which the Governor is the Chairman. It is charged with the duty " * * * to do and perform any and all acts and things deemed necessary and proper to protect the sovereignty of the State of Mississippi * * * from encroachment thereon by the Federal Government or any branch, department or agency thereof * * * " Miss. Code of 1942, §9028-35. Segregation is specifically ordained for: Public schools: Miss. Const., 1956, art. 8, §207; Miss. Code of 1942, §§6220.5 (integration is a criminal offense), 628-03, 6766, 6475-14, 6336-05, 6336-06(a). Public transportation and terminals: Miss. Code of 1942, §§2351.5, 2351.7, 3499, 7784, 7785, 7786, 7786-01, 7787, 7787.5. County and municipal jails and state prisons: Miss. Const. §225; Miss. Code of 1942, §§3374.5, 4259, 7913, 7971. Insane and charity hospitals: Miss. Code of 1942 §§6681-83, 6927, 6973-74. Further, it is a crime to conspire to overthrow the segregation laws of the State, Miss. Code of 1942, §2056.

Meredith's admission to the University of Mississippi produced a flood of like enactments. H.B. 2, First Extraordinary Session, 1962, 7 Race Rel. L. Rep. 1247 (1962), provides that "every word spoken * * * and every official act done * * * heretofore or hereafter by any officer, agent or employee of the State of Mississippi in anywise connected with or incident to keeping the Institutions of Higher Learning and the public schools and colleges of this state racially segregated * * * is hereby declared to be and established as the sovereign act or acts of the sovereign State of Mississippi * * * and not the individual act of such person * * * and shall be given full force and effect as the substantive law of this state as the official sovereign act * * * of this state and not the private or individual act * * * of such persons * * * " House concurrent Resolution No. 18, First Extraordinary Session, 1962, 7 Race Rel. L. Rep. 1248 (1962), recites the developments on the admission of James H. Meredith and the use of federal troops, and petitions the Government of the United States for a redress of grievances including the removal of Meredith from the University.

³⁴ The Court took judicial notice of this in *Meredith v. Fair*, 5 Cir., 1962, 298 F.2d 696.

so open, so frank, so candid did not accidentally pass by the voter problem. The Fifteenth Amendment, with its plain prohibition, posed difficulties. But a way was found to make segregation complete and total. This was to be accomplished through a number of steps.³⁵

Discriminatory Purpose of 1890 Constitution

On February 5, 1890, Mississippi Legislature called for a constitutional convention to revise the Constitution of 1869.³⁶ Although more than 50% of the population of [fol. 3156] Mississippi was Negro, only one of the 134 delegates elected to the Convention was a Negro. The Convention opened on August 12, 1890, and by November 1 adopted a new Constitution. Under the 1869 Constitution, all males over the age of 21 years, registered to vote, resident in the State six months and not disqualified by insanity, idiocy, or conviction of certain crimes were eligible.³⁷ The significant changes in the 1890 Constitution

³⁵ These were:

- (1) An understanding test
- (2) Careful districting of white versus black counties
- (3) An electoral system to preserve white control on executive and judicial elections
- (4) Use of the pure white democratic primary and
- (5) Restriction of party membership.

³⁶ In the discussion of this subdivision I draw on materials furnished in response to interrogatories requesting specific facts on which the Government based the claims in paragraphs 16 and 17 of its complaint that the chief purpose of the 1890 Convention was to restrict the Negro franchise and to perpetuate white supremacy. The Government filed detailed, voluminous answers titled "Purpose of Laws," all of which I incorporate by reference. At this stage of the proceeding, it is not the Court's function (nor mine) to credit or otherwise determine its truth other than to recognize that it is plausibly available as evidence or may lead to evidence. F.R.Civ.P. 26(b).

³⁷ Mississippi Constitution 1869, Art. VII, §2.

were residence for two years, payment of taxes including the annual poll tax, and a requirement that the applicant be able to read or understand any section of the State Constitution.³⁸

The Negroes' presence in the State posed a real problem. Constituting 53.7% of the population in 1870, the Negroes represented 57.6% in 1890. White were in control throughout the State, but not without some difficulties which one of the delegates described as "preserving the ascendancy of the white people by revolutionary methods" consisting, "in plain words," of "stuffing ballot-boxes * * * carrying the elections by fraud and violence until the whole machinery for elections was about to rot down." Anticipating the Convention, Senator George outlined its work. "Our first duty," he is reported to have said, "it to devise such measures, consistent with the Constitution of the United States, as will enable us to maintain a home government, under the control of the white people of the state."

From the opening note of the Convention, the theme was the single one. President of the Convention, Calhoun, described the race for racial supremacy as "one of the problems you have to encounter" and their challenge was to so arrange "this ballot system * * * as to effect one object." He was soon to spell that out. The temper of the Convention was reflected by the Resolution of the Preamble Committee. It first recited in a number of "Whereas" clauses the existence in Mississippi of the two races, their distinctive prejudices and instincts, the unchanging nature of racial differences so that "one race or the other must have charge and control [of] the governments of such states," which would lead to "instability" "and in as much as the white people only are capable of conducting and maintaining" government, the "negro race * * * being wholly unequal to such great responsibility

³⁸ Mississippi Constitution 1890 art. 12, §§241, 243, 244. Miss. Const. §244 requires, among other things, that a voter shall "be able to read any section of the Constitution of this State; or he shall be able to understand the same when read to him or give a reasonable interpretation thereof."

" * * * " It then resolved that it was the deliberate judgment [fol. 3158] of the Convention that "the true and only efficient remedy for the great and important difficulties" described "lies in the repeal of the XV Amendment of the Constitution * * *," so that "such restrictions and limitations may be put upon negro suffrage, by the several States, as may be necessary and proper for the maintenance of good and stable governments * * *." ³⁰

One delegate referring to the large adult Negro population of "70,000 * * * in excess of the white vote" declared it to be their duty to prevent the Negro majority from overthrowing the present civil government, and then offered a solution in this exclusive method: "How is this end to be accomplished? Only, in my judgment, by such an adjustment of the basis of suffrage as will secure to the white race a fixed and permanent majority. The white people * * * want to feel and know that they are protected * * * against * * * the possibility of Negro rule * * *. They demand this at our hands * * * and nothing short of this will satisfy them or excuse us. The remedy [fol. 3159] is in our hands. We can if we will afford a safe certain and permanent white supremacy in our state." Another delegate recognizing that "the powers of government are politically and constitutionally lodged in the Negro race" declared that "the paramount object of this Convention is to transfer it to and invest it in the white race." Apart from repeal of the Fifteenth Amendment "this could be accomplished" in several ways, one being "by an educational * * * qualification." Others echoed. "That is what we are here for, today to secure the supremacy of the white race." With poetic overtones, one remarked, "We are embarked in the same ship of white supremacy, and it is freighted with all our hopes." And President Calhoun made crystal clear the more generalized eloquence of his opening address. Of the Negroes, he is reported to have said: "We want them here, but their own good and our own demands that we shall devise some

³⁰ Journal of the Proceedings of the Constitutional Convention of the State of Mississippi (Jackson, Mississippi: E. L. Martin, 1890) 303-04.

means by which they shall be practically excluded from government control."

These contemporary views of the delegates are borne out by the long look of history. There have been at least two reunions of the surviving delegates of the Constitutional Convention, one in 1910, another in 1927. These proceedings clearly reveal the purpose of the Convention. The "primary purpose of it was to adopt some provision [fol. 3160] * * * which would secure to the State a good and stable government, freed from the incubus of Republican or negro rule. * * * All understood and desired that some scheme should be evolved which would effectively remove from the sphere of politics in the State the ignorant and unpatriotic Negro. * * *"⁴⁰ In the 1927 meeting, the reunion was called to order with the statement that * * * on that day, thirty-seven years ago, the Constitutional Convention of 1890 enacted an organic law which gave Mississippians Anglo-Saxon government, and adjourned."⁴¹ Discussing the achievements of this Convention, the Chairman of the surviving delegates modestly declared: "It was no easy task for the convention * * * to enact a state constitution practically eliminating from the electors of the State at least eight-tenths of its colored people, citizens of the United States, in the face of the fifteenth amendment * * *." The "fifteenth amendment * * * was not violated" by this Constitution. Rather, it was "only circumvented by Anglo-Saxon ingenuity." Of "the effort * * * to practically disfranchise the Negro race" in the fact of the Fifteenth Amendment, another described the "three full weeks" of "debating this momentous issue" and the result that " * * * out of the mill was ground the [fol. 3161] franchise article in our present constitution, which will ever protect us from an irresponsible class." Convinced that "civilization depended upon the supremacy of the white race in Mississippi," but knowing full well that the right of "the colored man to vote" could not be

⁴⁰ Mayre Dabney, The Proceedings of the Reunion of the Surviving Members of the Constitutional Convention of 1890 (1910).

⁴¹ The Proceedings of the Reunion of the Surviving Members of the Constitutional Convention of 1890, 5 (1927).

defeated because of "race, color, or previous condition," the work of the Convention was described as one in which "we belted the whole circle of expedients in legislating against his habits and weaknesses, and, without infringing the provisions of the Constitution of the United States, we provided for perpetual white supremacy in the State of Mississippi * * *."

Judge Thompson, one of the delegates, after remarking that there was "scarcely a conceivable scheme having the least tendency to eliminate the Negro vote that was not duly considered by the convention" then declared, "It is regrettable that all the suggestions * * * were not recorded; had they been preserved, the record would be a monument to the resourcefulness of the human mind."⁴²

One delegate reciting in detail the problems besetting the State described the four-step structure of legislative apportionment (districting to favor 'white' counties), the electoral plan for the Executive and Judiciary, limiting [fol. 3162] Negro suffrage by the annual poll tax, and the adoption of the understanding clause. He concluded that these "several suffrage requirements combined" have "as they were intended, reduced the Negro majorities to a negligible political quantity." He then characterized the problem and its solution in these doleful terms. "Concisely and correctly summed up, of the two ills Mississippi chose the lesser. She has exchanged an organic malady for a functional disorder. The Convention substituted a desiccated for a diseased electorate. The ensuing ills of the present state are within the check and correction of the white citizens."⁴³

⁴² R. H. Thompson, Mississippi Constitution of 1890—An Address Delivered to the Mississippi State Bar Association (Biloxi, Mississippi: 1923) 16-17.

⁴³ J. S. McNeily, "History of the Measures Submitted to the Committee on Elective Franchise, Apportionment, and Elections in the Constitutional Convention of 1890," Publications of the Mississippi Historical Society. (Oxford, Mississippi: Printed for the Society, 1902) 129-140.

The Understanding Test

The understanding test was early proposed. Despite the considerable advantage this would work in favor of the whites because of the lower white illiteracy rate (white —11%; Negro—76%), some, opposing it, expressed the "fear [that] it will lead to trickery and fraud." Adopting this test "placed in the hands of the officer who is to apply the test the power to defraud and disfranchise." Recognizing in those early days what Negro applicants in the Twentieth Century were to experience "the test was criticized in blunt language that it didn't "look honest, straight-forward or manly." Rather, it "looks like a farce to make a registration officer decide whether a voter rightly interprets a clause of the Constitution." "Disclaiming responsibility for "anything so vague in its application and uncertain in its effect," one delegate from a black county reported he had acquiesced on the simple proposition that "half a loaf is better than no bread." There was substantial public approval for the view expressed by one that "the people sent the delegates to the Convention to secure white supremacy, not by a trick or artifice, not by fraud, stratagem, or subterfuge, but by brave, open, honest and honorable methods," declaring that this understanding "section was a fraud upon its face and the trail of the serpent was on it all," he concluded that "the mephitic vapor which arises from the section . . . makes one feel like stuffing the registration books."

[fol. 3164] One of Mississippi's distinguished legal schol-

⁴⁴ See notes 9, 18, and 26 as to Forrest County and the *Lynd* contempt case; also notes 9 and 11, *United States v. Ramsey*, 5 Cir., — F.2d — [No. 20596, February 20, 1964].

⁴⁵ "Persuaded that the understanding clause was based on fraud," Louisiana rejected the Mississippi example. See *United States v. State of Louisiana*, D.C.La., 1963, 225 F.Supp. 353, 371, n. 46; also many of these, or similar materials, are discussed by Judge Wisdom in notes 45, 46, and 88.

ars and Justice of its Supreme Court, George H. Ethridge,⁴⁶ does not flinch at the word "discriminate." Of §241 he remarked, "It is said that this section while it does not discriminate against any person or race, it discriminates as to their character and nature." Not elaborating this dialectic, he then recognized that "this is one of the methods of disfranchising the Negro." As a Mississippi lawyer and Mississippi judge, he saw as federal judges were to see a quarter of a century later that with the understanding test of §244, " * * * a person who cannot read would be largely at the mercy of the registrar * * * . The registrar could pick out any section he desired and read it to him and call on him to explain it." ⁴⁷

The White Man's Democratic Primary

Few as they are, difficult as it is for them to become registered, Negro voters are effectually excluded in the elective process through the means of the democratic primary.⁴⁸ The heavy hand of the State has been in this too. [fol. 3165] Beginning in 1902 with the statutory advent of primaries,⁴⁹ the various executive committees of the Democratic Party, state and county, categorically allowed white democrats only to participate. Typical of these actions was the resolution of the State Committee in 1907. "Resolved, in addition to the qualifications prescribed by

⁴⁶ George Ethridge, Mississippi Constitution 424-29, 435, 439, 445 (Jackson, Mississippi: Tucker Printing House 1928).

⁴⁷ He also discussed with frankness §§251 (timing of registration) and 254 (apportionment) and 256 (reapportionment).

⁴⁸ These materials also are in the answer volume entitled "Purpose of Laws" in response to interrogatories requiring the Government to state the factual detail in support of paragraph 21 of the complaint that from 1899 to 1952 white political supremacy was promoted by, among other things, Negroes being excluded from the Democratic Primary elections. I treat this as outlined in note 36, *supra*.

⁴⁹ Miss. Sess. Laws 1902, ch. 66.

law for voters in said primaries, all voters therein shall be white democrats." In 1915 the State Committee, rejecting the implication in other resolutions that "unjustly reflect on the white democratic elections in this state," declared that " * * * the election just concluded [was] an honest and patriotic expression of the choice of the white democrats of Mississippi."

Perhaps forecasting like indifference to the school decisions ten years later, the decision by the Supreme Court in 1944 holding "white primaries" to be unconstitutional⁵⁰ [fol. 3166] caused no change in result, only in methods. The first big test came in the July 1946 Democratic Primary election for United States Senator resulting in the renomination of Senator Theodore Bilbo. The practices were the subject of investigation by special committee of the Senate.⁵¹ One member of the State Democratic Executive Committee, after acknowledging that "back in the old days, the State Democratic executive committee * * * specified that only white Democrats * * * take part" and the meeting held in 1946 to resolve the question posed by the Supreme Court decision, testified that while all thought the Negro "had a legal right to vote" nevertheless " * * * it was the unanimous opinion—although nothing was spread on in this about it—that they didn't want [the Negro] to vote, therefore, he wouldn't vote * * *." The conclusion, he went on, was that "we thought the best thing to do was to say nothing and not agitate the matter one way or another and let matters take their course, and so that course was pursued."⁵²

[fol. 3167] This "do nothing" plan seemed to work.⁵³

⁵⁰ Smith v. Allwright, 1944, 321 U.S. 649, 64 S.Ct. 757, 88 L.Ed. 987; Terry v. Adams, 1952, 345 U.S. 461, 73 S.Ct. 809, 97 L.Ed. 1152.

⁵¹ Hearings Before the Senate Special Committee to Investigate Campaign Expenditures, 19464, 79th Cong., 2nd Sess. [hereinafter cited Hearings].

⁵² Hearings 371-72.

⁵³ The Senator, as a candidate for renomination, on the eve of the election described it as "Mississippi's white senatorial primary election" and urged "every white

The government's material shows specific places and names of Negroes attempting to vote in that primary who were turned away.⁵⁴

But the "do-nothing policy" did not long prevail. In 1947 the Mississippi Legislature enacted laws to require that in order to vote in a primary, participants must be in accord with the principles of the particular party.⁵⁵ Any person may be challenged at the polls as to his qualifications and accord with the principles of the party.⁵⁶ The party organization was not slow to act. Beginning in 1948 by successive actions, it has adopted principles that Negroes could not subscribe to.⁵⁷ And these principles soon had the imprimatur of the State of Mississippi.⁵⁸

[fol. 3168] The answers show by name, date, place and county that the system worked. Negroes trying to vote in primaries were successfully challenged. This continues up to the most recent primaries of 1962. Typical, though spectacular, was the incident in the August 1955 primary and run-off in the all-Negro town of Mound Bayou, Mississippi, Bolivar County. Accompanying the ballot boxes was a written challenge signed by each of the candidates challenging all voters from this precinct (known to be Negroes

Democratic man and woman" to participate in it. Hearings 382.

⁵⁴ A number of Mississippi Negro voters testified of their unsuccessful efforts to register or vote, or both. See pp. 140-141, 120-121, 281-282, 225-226, 250-263, 283-284, 298, 317-320, 124-125, 213-215 of the Hearings.

⁵⁵ Miss. Sess. Laws 1947, Ex. ch. 17.

⁵⁶ Miss. Code of 1942 §3129.

⁵⁷ Resolutions of Mississippi Democratic Party 1948, 1952, 1960.

⁵⁸ See 1952 Resolution setting out and endorsing the principles adopted by the Democratic State Executive Committee, Miss. Ses. Laws 1952, Ch. 464.

These principles, legislatively approved, declared among other things: "We believe in the segregation of the races and are unalterably opposed to the repeal or modification of the segregation laws of this state, and we do not favor the practice of nonsegregation."

only) as such voters were not in accord with the declared principles of the Democratic Party.⁵⁹ Although there were 295 registered Negro voters, none were allowed to vote. Another device frequently used was the maintenance of two separate poll books by the county registrars, one being the general election poll book which included the names of qualified Negro voters. The other, a primary poll book pursuant to instructions from respective Democratic Executive Committees, excluded Negro registrants.

Separate But Not Equal Education for Negroes

[fol. 3169] Segregation of the schools, as such, may not appear to be directly involved in voter registration. Certainly a voter registration case cannot be made the vehicle to bring about this change in state custom and practice. But in the massive assault on voter registration here, it is a direct element of the Government's thesis. The charge is that the understanding test, as first conceived in Miss. Const. §244 and as later amended in 1954 to include read and understand, was, and is, a ready mechanism to disfranchise the Negro because of inferior education. It is the *inferior* education, not its segregated characteristic, that is important. Any appraisal of the quality of education must, of course, reckon with the open, frank policy of segregation.⁶⁰

Although Negro children of school age have always exceeded the number of white children,⁶¹ the general level of

⁵⁹ A copy of the Resolution, H.C.R. No. 7, Ch. 464, Miss. Acts of 1952 (see note 58, *supra*) was attached.

⁶⁰ The matters discussed in this subdivision come from the volume of answers to interrogatories entitled "Comparison of Education for Negroes and White Persons 1890-1963," comprising 89 pages in response to a request for the factual detail in support of the contention in paragraph 31 of the complaint that public educational facilities for Negroes were and are inferior to those provided for white persons. I treat these as in notes 36 and 48, *supra*.

⁶¹ [fol. 3170] State of Mississippi School Census

Year	White	Negro
1890	207,652	292,581
1910	310,548	410,089
1929	379,678	493,987
1949	393,804	492,349
1960	329,215	337,871

Negro teacher training is below that for whites.⁶² Likewise, the amount spent, including teachers' salaries, is far less for Negroes despite recent spectacular increases.⁶³

⁶² For example, in 1929-1930 out of a teacher corps of approximately 3,900 white teachers and 3,100 Negroes, 3,263 whites were college graduates whereas 2,719 Negroes were not even high school graduates. By 1954 there was considerable improvement, but white teachers with college degrees outnumbered their Negro counterparts by three to one.

⁶³ The instructional cost per child in average attendance is graphically different:

	1900- 1901	1929- 1930	1939- 1940	1949- 1950	1956- 1957	1960- 1961
White	\$8.20	\$40.42	\$31.23	\$78.70	\$128.50	\$173.42
Negro	2.67	7.45	6.69	23.83	78.70	117.10

The following are selected comparisons of expenditures above the state minimum program listed on a per child basis:

District	White	Negro
Amite Co.	\$ 70.46	\$ 2.24
Benton Co.	59.42	15.63
Claiborne Co.	142.64	19.88
Coahoma Co.	139.33	12.74
Hinds Co.	80.24	10.41
Lefflore Co.	175.38	9.52
Madison Co.	171.24	4.35
Yazoo Co.	245.55	2.92

During 1954-1955 every school district spent more for whites than Negroes. It ran from a high of \$600, Glenwood District, Tallahatchie County (whites) to a lot of \$45, Senatobia District, Tate County (Negroes) averaging as follows:

	White Per Pupil Cost	Negro Per Pupil Cost
County average	\$161.00	\$ 87.00
Separate district average	181.00	106.00

Even these figures may be deceptive. In the Report of a Study of the Education for Negroes in Sunflower County, Mississippi (Bureau of Educational Research, School of Education, University of Mississippi: March 1950), it was pointed out, at 134-35, "Sunflower County in 1939-40 received \$73,626 per capita fund. Since 79 per cent of the

[fol. 3171] Only recently, and then under the impetus of the 1954 school decisions, has there been any near parity as to the number of consolidated versus unconsolidated (one and two-teacher schools).⁶⁴ The same is true of enrollment in high schools, a matter of much consequence in a test designed to elicit interpretation and understanding of a constitutional provision and the duties of citizenship.⁶⁵

[fol. 3172] This is not a mere matter of statistics. The responsible officials of Mississippi have publicly recognized the disparity in educational facilities and the necessity for substantial improvement.⁶⁶ Governor Wright in 1950 urged

educables at that time were Negroes, \$58,165 was the amount received on the basis of the Negro children. However, only \$35,564 was spent for 'instruction' for the Negro children. Evidently \$22,601 of this amount was expended elsewhere—probably on the schools for the whites. In the last two years the difference in the amount received and the amount [not spent for Negro children] is more than twice the \$22,601 figure.''

⁶⁴ Between 1910 and 1930 Negro schools were not consolidated. As of 1930-1931, the make-up of the schools was as follows:

	Number Consolidated Schools	Number Unconsolidated Schools	Number One-teacher Schools	Number Two-teacher Schools
White	959	789	515	202
Negro	16	3484	2411	832

⁶⁵ In 1930-1931 out of 752 secondary schools, only 46 were Negro with an enrollment of 5,012 about 1/10th of that for whites (49,742). By 1953 the enrollment ratio was still nearly three to one (474—285 schools) with Negro enrollment 26,667 compared with 61,323 whites. Fortunately for present and future generations, 1961-62 shows much improvement (white 77,694; Negroes 48,798).

⁶⁶ It was not always so. Governor Vardaman recalling his proposal for a constitutional amendment to "control the distribution of a public school fund so as to stop the useless expenditure in the black counties" is reported as saying of a bill providing money for a Negro school in Holly Springs, "Did I sign it? No, I killed the bill when I killed the school * * *."

action. "We face," he told the joint session of the Legislature, "a serious problem in the matter of providing comparable educational opportunities for the two races in our State." He identified the problem in the three phases of teacher salary adjustments, transportation, and building facilities. He recommended legislation for equalization of teacher pay "and removing any discrimination as between the races." Recognizing that what existed was not separate and equal, he urged "that a program be enacted providing for equal facilities between the races recognizing that children of both races are entitled to equal opportunities," in, of course, segregated facilities.⁶⁷ The same views were echoed by Governor White two years later. "It is true that there is a wide variation in educational opportunities between the races."⁶⁸

[fol. 3173] And various official biennial reports of the State Superintendent of Public Education have portrayed this great disparity in graphic terms. Over a wide space of years, they pinpoint the causes. For example, "in many counties . . . Negro children are forced to attend school in mere shacks or in church houses."⁶⁹ As of 1930-1931, "98.3 percent of all children in schools for the colored race were in grades one to eight inclusive and 1.7 percent in grades nine to twelve. The great majority of colored children never got beyond the sixth grade."⁷⁰ The [fol. 3174] fact is "that we spend less money in Mississippi per child in the schools for the Negro race than in the schools for the white race."⁷¹ Teacher quality for Negroes

⁶⁷ Message by Governor Fielding L. Wright to the Joint Session Mississippi Legislature, January 3, 1950.

⁶⁸ In 1953 Extraordinary Session Senate Journal 970.

⁶⁹ Biennial Report and Recommendations of the State Superintendent of Public Education to the Legislature of Mississippi for the Scholastic Years 1929-30 and 1930-31, 45 [hereinafter cited Biennial Report].

⁷⁰ Twenty Years of Progress 1910-1930 and A Biennial Survey Scholastic Years 1929-30 and 1930-31 of Public Education in Mississippi 130 [hereinafter cited Twenty Years of Progress].

⁷¹ Twenty Years of Progress 107.

suffered from lack of adequate colleges. As a consequence "the quality of work done in the school room by the majority of negro teachers would not rank very high when measured by any acceptable minimum known to the leaders in educational thought."⁷² The Negro teaching force had "an average of 50 enrolled pupils each", but the average was deceptive since "teachers in the lower grades frequently have in their charge from seventy-five to one hundred and fifty pupils. . . ."⁷³ In 1933-35, out of 3,700 Negro schoolhouses, only two-thirds were publicly owned. For the other third (1,440), schools were "conducted in churches, lodges, old stores, tenant houses, or whatever building is available."⁷⁴

[fol. 3175] As late as 1937 "ninety-four percent of the educable Negro population of high school age" were "not in school . . ."⁷⁵ This was hardly surprising since "there [were] twenty-eight counties in Mississippi which [did] not have any recognized high school facilities for Negroes."⁷⁶ As of that same period, the state board prescribed \$28 per month for a six-month term (\$170 per year) for Negro teachers. It was, of course, "obvious that the salary problem is one of our real problems . . . in Mississippi."⁷⁷ Even physical facilities as late as 1945 represented "one of the most pressing needs in Mississippi" to meet the simple but then unattained object that "schoolhouses need not be elaborate, but they should at least be sanitary, com-

⁷² Twenty Years of Progress 90.

⁷³ Biennial Report 1933-35, 41.

⁷⁴ Ibid.

⁷⁵ Biennial Report 1935-37, 13.

⁷⁶ Ibid. Negroes "schooled" in that era are still a factor since approximately 8.6% (79,193) of the State's 1960 Negro population were born between 1923 and 1931. (Assuming entry to first grade at 6 years, and schooling terminating grade eight.) United States Bureau of the Census, United States Census of Population 1960, General Social and Economic Characteristics, Mississippi, Final Report PC(1)-26C, Table 37, at 26-112 (1961).

⁷⁷ Biennial Report 1937-39, 16.

portable and adequate."⁷⁸ The report of 1955-57, noting considerable progress, but recognizing "that public schools for Negroes have been poor in the past" made specific recommendation for "getting all communities to meet the responsibility of truly equalizing facilities" for Negro and [fol. 3176] whites.⁷⁹ It recommended also increase in graduate training for Negro teachers, administrative supervision for Negro elementary schools since "many elementary teachers are not fully qualified," and local supervision of classroom teaching since "the fact that public schools for Negroes have been poor in the past * * * has a direct bearing on the quality of instruction being done * * *"⁸⁰

All of these findings have been confirmed by various professional studies, including those for the University and the State Legislature.⁸¹

Pursuant to legislation in 1953, all counties were to make educational surveys of educational facilities and submit reorganization plan by July 1, 1957. Surveys were to be made [fol. 3177] by specified agencies of the state university system. The materials furnished by the Government contain summaries and extracts from 1955 to 1957 reports made in many counties.⁸² As to Negro schools, they are nearly all

⁷⁸ Biennial Report 1943-45, 21-22.

⁷⁹ Biennial Report 1955-57, 40, 41.

⁸⁰ Biennial Report 1957-59, 40, 41.

⁸¹ See A Report of the Committee of Investigation of the Teacher Training Facilities for Negroes in Mississippi, Bulletin No. 61 (1930) State of Mississippi Department of Education; Higher Education in Mississippi: A Survey Report to the Board of Trustees, Institutions of Higher Learning (1954) John E. Brewton, Director; Public Education in Mississippi: Report of Mississippi Legislative Education Study Committee, December 1961; Public Education in Mississippi: Report of Advisory Study Groups Institutions of Higher Learning, 1961.

⁸² The Reports extracted are by Dr. John E. Phay, Director Bureau of Educational Research, University of Mississippi or Dr. Ralph S. Owings, Head and Professor of

the same: with per capita per pupil expenditures running frequently two to one in favor of whites, Negro school buildings are run-down, inadequate, unlighted, overcrowded, without desks, blackboards or needed facilities, staffed by overworked, underpaid, undertrained Negro teachers.⁸³

Educational Administration, Mississippi Southern College.

As for another era (see note 76, supra), those "schooled" in the 1955-57 era are important. Those then attending (grades 1 through 12) span birth years of 1939-1951. Negroes born during that period comprise approximately 24.6% (226,500) of the 1960 Negro population. See United States Bureau of The Census, United States Census of Population 1960, General Social and Economic Characteristics, Mississippi, Final Report PC(1)-26C, Table 37, at 26-112.

⁸³ The following comments concerning Negroes in various county reports are typical: "The program is very weak and inadequate * * *. These boys and girls are not getting a program of education that appears to be of too much consequence. * * *. The listing of the offerings would not reveal anything that would prove valuable." "The buildings for Negroes are most inadequate and in a deplorable condition." "There is a dearth of teaching materials and equipment in all the Negro schools. There is a shortage of chalk boards, bulletin boards, reading material, charts, maps, and library books." "The Negro buildings are most inadequate and in a deplorable condition * * *. It is quite evident from examination of the pictures of the schools that the Negro situation is pathetic." "In a one-teacher school, 'the windows are inadequate, * * * it has no lights and the furniture consists of chairs and benches. There is no water supply * * *. Teaching aids, such as chalk boards and bulletin boards are desired.' Another one-teacher schoolroom 'has a metal roof that leaks. The windows are inadequate and half the panes are missing * * *. There are no lights and the furniture is home-made benches. There is no water supply at all.' In another, 'the teaching aides are most inadequate. The entire facili-

[fol. 3178] The 1890 Plan Has Worked

In the field of racial discrimination, figures do count. Figures tell the best, if not the whole, story. United States ex rel. Seals v. Wiman, 5 Cir., 1962, 304 F.2d 53 at 66, 67.⁸⁴ The figures here are little less than devastating.⁸⁵ In many counties other than the six listed in the majority opinion (Part IV), the actual result shows that the percentage of registered Negro voters runs from a low of 0% to a high of 2.9%. This is in contrast to a low of 57% and a high of 100% for whites in the same counties.⁸⁶

ties are not suitable for school." Of another county, "It may be said that throughout the entire county no high school for Negroes exists which presents a curriculum attractive enough to hold boys and girls in school. The needs of these youngsters are not being met." It "may be noted * * * that in the Negro elementary schools, the quality of education and the materials available for teaching seem to be far below that in the white schools. * * *." In " * * * both * * * the quality and quantity of housing, in the availability of instructional materials * * * the Negro elementary schools are below those of the white schools. * * *."

⁸⁴ Brown v. Allen, 1953, 344 U.S. 443, 73 S.Ct. 397, 97 L.Ed. 469; Smith v. Texas, 1940, 311 U.S. 128, 61 S.Ct. 164, 85 L.Ed. 84; Speller v. Allen, 1953, 344 U.S. 443, 477, 73 S.Ct. 397, 97 L.Ed. 469.

⁸⁵ I treat this as in notes 36, 48, and 60. The material comes from the Government answers stating factual detail in support of the statistical allegations in the complaint.

County	Whites			Negroes		
	Number Over 21	Registered	%	Number Over 21	Registered	%
Panola	7,639	5,309	69	7,250	2	.028
Tunica	2,011	1,436	71	5,822	42	.72
Marshall	4,342	4,162	96	7,168	57	.8
Yazoo	7,598	7,130	93.0	8,719	256	2.9
Copiah	8,153	7,533	92.0	6,407	25	.39
Madison	5,622	5,458	97	10,366	121	1.1
Clarke	6,072	5,000	83	2,998	1	.03
Tallahatchie	5,099	4,330	85	6,483	5	.07
Holmes	4,773	3,530	74	8,757	8	.09
Kemper	3,113*	3,224*	100	3,221	30	.9
Forrest	22,431	12,655	57	7,495	22	.3
Lamar	6,489	5,593	91	1,071	0	.0

* This is as reflected in the answers. Doubtless one or the other figure is in error.

[fol. 3179] Of course there might be several explanations for these figures. One might be that this is what the Negroes want. Another might be that this is just accidental. A third might be that this proves the effectiveness of a carefully contrived plan to exclude the Negro. A choosing from those possible inferences is not a function of pleadings or a motion to dismiss. On a motion to dismiss, the Court cannot, for example, declare that this is all one of nature's accidents. And in the face of other evidence [fol. 3180] which the Government proposes to offer, it cannot be charged off at this early stage as voluntary conduct by many thousands of adult Mississippi Negroes. For in like response to interrogatories seeking factual basis for the allegations in the complaint that Negroes have regularly, consistently been denied the right to register or vote or both, the Government, citing chapter, verse, county, date, time, name, and circumstance, has identified thousands of Negroes who have sought but who have been denied these rights.⁸⁷ This leaves as plausible the inference asserted by the Government—that the 1890 plan, supplemented by inferior schools in a segregated society, operating in a closed white man's democratic primary with changes in 1954, 1960, and 1962, freezing in a large body of whites while freezing out thousands of Negroes—has achieved its purpose. Only a trial, at least in the present posture of this case, can resolve the choice.

[fol. 3181] That inference, once drawn, after a trial either as a matter of fact or as a matter of law, will go a long way—if not the whole way—toward establishing that the entire voter-registration-voting structure is invalid, not because it has been discriminatorily applied, but because it was meant to work that way and has.

⁸⁷ These are found generally in the answer volumes. These answers were 19(f), (g), relating to paragraph 69 of the complaint. These weigh approximately 35 pounds, and are over one foot thick. I treat these as in notes 36, 48, 60, and 85.

This illustrates also the significance of evidence of discrimination on the Government's theory. It is not to show discriminatory application, but to show the result of a discriminatory structure.

Meeting the Exigencies From the Law's Reverses

The rapidity with which even the slightest breaches in this Maginot Line were closed demonstrates a continuing purpose, not only to institute but to maintain a structure of discrimination. Only brief mention may now be made of some of the more vivid of these.

And For Or

The first is the amendment to §244 to prescribe a read and understand test. Though *Peay v. Cox*, 5 Cir., 1951, 190 F.2d 122, opened up the door to Negroes who could read *or* understand, the effort in 1952 to amend the Constitution was unsuccessful. In 1954 the full impact was soon realized under the pressure of the 1954 Supreme Court school decision. With effective aid from White Citizens Councils, both the voter registration amendment and the school amendment giving the Legislature the discretion to maintain public schools were adopted.⁸⁸

[fol. 3182] Was this action just a coincidence? Or was it an immediate and effective response against the possibility that the great number of under-educated adult Negroes, the product of segregated schools then acknowledged to be inferior, would now at least be eligible to orally state an understanding or interpretation? And if not now, would they not in the early future be eligible as more and more Negroes would receive an education of equal quality as a result of "integrated" attendance at formerly all white schools? At this stage of the proceedings, the minimum called for is a trial. For if those were the purposes, then *Gomillion v. Lightfoot*, 1960, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110, would permit both judicial inquiry into, and judicial redress for, such racial discrimination.

The 1962 Package

The complaint describes in detail the Government suit against Registrar Lynd, Forrest County, including the appeal, the injunction pending appeal by the Fifth Circuit

⁸⁸ This material is found in the Government's answers. I treat it as in notes 36, 48, 60, 85 and 87.

resulting thereafter in contempt orders, hearings, judgments and affirmance.⁸⁹ Consequently, the Government is [fol. 3183] in no sense confined to the material set forth in answers to the interrogatories.⁹⁰ The Government may also legitimately point to all of the now publicly known developments in the *Lynd* cases to demonstrate that it can prove its theory. In a nutshell, the theory is that, most if not all, of the 1962 package of bills⁹¹ was a direct, immediate effort to overcome or circumvent successive adverse decisions of the Fifth Circuit, particularly, in the *Lynd* cases.

The *Lynd* case essentially charged discriminatory application of laws otherwise assumed to be valid. One of the principal weapons for discriminatory administration was the registration application form.⁹² Contrary to the bland assumption in the majority opinion that, "No tricky application form is alleged or exhibited," Majority Opinion Part XIV, at 66, the developments in the *Lynd* cases demonstrated that the form was loaded with ambiguities, pitfalls, and traps for the unwary, and as such, was a ready-made device for racial discrimination.⁹³

⁸⁹ See notes 9 and 18.

⁹⁰ These materials are found in the multi-volume answers. I treat these as in notes 36, 48, 60, 85, 87 and 88. Also, at least at this stage, it is proper to take judicial knowledge of the records and proceedings of all of the *Lynd* cases.

⁹¹ See note 27.

⁹² This form is promulgated by the State Election Board, Miss. Code of 1942, §3209.6, as amended recently in 1962 to require a space on the form to reflect information as to good moral character.

⁹³ For example, items "3. State your age and date of birth:", "8. For how long have you resided in Mississippi?" "10. Specify the date when such residence began," called for identical information for a native-born continuous resident, yet discrepancies resulted in rejection. Item "12. Check which oath you desire to take: (1) General — (2) Ministers — (3) Ministers' Wife — (4) If under 21 years at present, but 21 years by date of general election —." Item "21. Sign the oath or affirmation named in Question 12," was followed by "(a) GENERAL and/or SPECIAL OATH" consisting of an affidavit with a

[fol. 3184] The greatest source of discrimination, of course, was in the requirement that the applicant copy a section of the Constitution selected by the registrar (Item 18) and then write his reasonable interpretation and meaning thereof, (Item 19) and also write a statement of his understanding of the duties and obligations of [fol. 3185] citizenship (Item 20).⁹⁴ Those sections of the Mississippi Constitution given frequently to Negroes but never to whites were §112,⁹⁵ §124,⁹⁶ §160,⁹⁷ §224,⁹⁸ and

line for signature marked "Applicant's Signature As To Oath" and "(b) Oath of Minister and/or Minister's Wife" with an affidavit and a line marked "Applicant's Signature As To Oath." Immediately below the line for minister's signature there was another line marked "The applicant will sign his name here." Though otherwise perfectly filled out, Negro applicants were frequently rejected because of failure to sign the bottom line which most (white and Negro) constructed to be the place for a minister-applicant to sign. Both the (a) general and (b) minister's oath had blanks to fill out residence "in this State two years, and in — Election District of — County one year." Even though answer to Item "9 Where is your place of residence in the District" gave a correct address which would enable the registrar to know precisely from voting precinct records the proper voting District for the applicant and the answer to Item 10 "Specify the date when such residence began" would establish that it exceeded two years and one year respectively, the application was rejected if the wrong election district was named in the blanks of the oath.

⁹⁴ "Item 20. Write in the space below a statement setting forth your understanding of the duties and obligations of citizenship under constitutional form of government."

⁹⁵ §112. "Taxation shall be uniform and equal throughout the state. Property shall be taxed in proportion to its value. The Legislature may, however, impose a tax per capita upon such domestic animals as from their nature and habits are destructive of other property. Property shall be assessed for taxes under General Laws, and uni-

§273,⁹⁹ all exceedingly long, complex provisions having little relation to the usual notions of the nature of our constitutional government and its structure. In contrast, simple, direct and more fundamental ones were given frequently to whites, but never to Negroes, such as §118,¹⁰⁰ §139,¹⁰¹ §226.¹⁰²

[fol. 3186] The *Lynd* case centered about the use of the application form. In the injunction pending appeal (later affirmed), the Fifth Circuit found a series of specific dis-

[Footnotes 95, 96, 97, 98 Continued from Page 1606]

form rules, according to its true value. But the legislature may provide for special mode of valuation and assessment for railroads, and railroad and other corporate property, or for particular species of property belonging to persons, corporations, or associations not situated wholly in one county. But all such property shall be assessed at its true value, and no county shall be denied the right to levy county and special taxes upon such assessment as in other cases of property situated and assessed in the county."

⁹⁶ §124. This section is a 161-word, detailed explanation of the Governor's pardoning power and the pardoning mechanism.

⁹⁷ §160. This section is a long description of the jurisdiction of the Chancery Court elaborating technical distinctions between law and equity in real estate proceedings.

⁹⁸ §224 covers the hiring of convicts for private or public work.

⁹⁹ §273. This section is a 155-word, detailed description of the constitutional amendatory mechanism.

¹⁰⁰ §118. "The Governor shall receive for his services such compensation as may be fixed by law, which shall neither be increased nor diminished during his term of office."

¹⁰¹ §139. "The Legislature may empower the Governor to remove and appoint officers, in any county or counties of municipal corporations, under such regulations as may be prescribed by law."

¹⁰² §226. This section contains a one-sentence restriction on hiring of convicts.

criminations and enjoined the Registrar from committing specific acts. 301 F.2d 818 at 823. The registrar was ordered to give Negroes the benefit of the same type of assistance theretofore given to white persons; to cease rejecting applications of Negroes without giving the cause or reason for rejection; and to cease rejecting obviously qualified Negroes for inconsequential or no errors.

[fol. 3187] Typical of the immediate response was Miss. Laws 1962, Ch. 570. Prior to the amendment, this section required that an applicant fill out the application form without assistance or suggestion from any person. The amendment added that the requirements of the statute were mandatory; that no application shall be approved or the applicant registered unless all blanks on the application form are "properly and responsively" filled out by the applicant; and that both the oath as such and the application form must be signed separately by the applicant. And to inject a new standard which would defy a Federal Appellate Court determination that particular applicants were qualified as a matter of law,¹⁰³ Miss. Laws 1962, Ch. 575 was enacted to implement the 1960 Amendment to §244 by inserting a good moral character requirement. Another bill required publication of the names of applicants and allowed members of the public thereafter to challenge such applicants. Miss. Laws 1962, Ch. 572.

[fol. 3188]

V

No Legal Obstacle to Relief

When the true nature of the Government's theory is kept in mind, none of the legal arguments advanced by the majority serves as a stumbling block.

If from evidentiary materials, the Government estab-

¹⁰³ This has been done at least twice by the Fifth Circuit. *Alabama v. United States*, 5 Cir., 1962, 304 F.2d 583 at 584, 594, aff'd mem., 1963, 371 U.S. 37, 83 S.Ct. 145, 9 L.Ed.2d 112. And see paragraph 2a the unpublished contempt order in the *Lynd* case, certiorari denied, 1964, — U.S. —, — S.Ct. —, 11 L.Ed.2d 416; 5 Cir., 1963, 321 F.2d 26.

lishes¹⁰⁴ that the disparity is the result of a structure instituted or thereafter maintained for the purpose of denying the Negroes' right to vote, then each and every statutory-constitutional element helpful to the operation of the illegal machine must fall.

Apparent validity on the face of such enactments will be of no significance. *Gomillion v. Lightfoot*, 1960, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110; and see *Yick Wo v. Hopkins*, 1886, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220; *Lane v. Wilson*, 1938, 307 U.S. 268, 59 S.Ct. 872, 83 L.Ed. 1281. Hence cases such as *Williams v. Mississippi*, 1898 [fol. 3189] 170 U.S. 213, 18 S.Ct. 583, 42 L.Ed. 1012, and *Darby v. Daniel*, S.D.Miss., 1958, 168 F.Supp. 170 which the majority (see Part XII) stresses as a holding "on the face" are of little consequence as precedents or for persuasiveness.

The extended preoccupation of the majority (see Part X) with the thesis that voter qualification is exclusively committed to the states is neither accurate nor significant. All bends to the Federal Constitution.¹⁰⁵

Nor could the elusive, undefinable "good moral character" test (see Part XIII) be employed as an intended or effective instrument of discrimination, no matter how well established it may be as a statutory requirement for professional or business permits. Standards of this kind, otherwise unobjectionable and often praiseworthy, must

¹⁰⁴ Whether it will be able to establish all or any portion of the supporting facts either as a matter of fact-finding or as a matter of law, either in advance of, or after, trial (see *Carss v. Outboard Marine Corp.*, 5 Cir., 1958, 252 F.2d 690; *Camilla Cotton Oil Co. v. Spencer Kellogg and Sons*, 5 Cir., 1958, 257 F.2d 162; *Smoot v. State Farm Mutual Automobile Ins. Co.*, 5 Cir., 1962, 299 F.2d 525), I do not know. That question is not before me or the Court since the Government has not yet filed any motion for affirmative relief at this stage, either for summary judgment or otherwise. I intimate no judgment on these factual matters.

¹⁰⁵ See Judge Wisdom's detailed analysis of this shibboleth in *United States v. State of Louisiana*, D.C.La. (3-Judge), 1963, 225 F.Supp. 353, 358.

not be available to shield purposeful discrimination or conceal its exercise. The Fifth Circuit, for example, held a similar requirement for alumni recommendation unconstitutional, since no Negro could hope to get such assistance from Mississippi white persons. *Meredith v. Fair*, 5 Cir., 1962, 298 F.2d 696, 701-702; and see also *Ludley v. Board of Supervisors Louisiana State University*, E.D.La., 130 F.Supp. 900, aff'd, 5 Cir., 252 F.2d 372, cert. denied, 1958, 358 U.S. 819, 79 S.Ct. 31, 3 L.Ed.2d 61. And certainly a close look must be given to a test when the whole public—[fol. 3190] from the publication of the applicant's name—is invited to challenge the "good moral" character of a Negro. If First Amendment rights of freedom of association and expression are protected against such publicity (see note 28, *supra*), then surely Fifteenth Amendment rights are just as deserving.

Finally, nothing in *Lassiter v. Northhampton County Board of Elections*, 1959, 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed.2d 1072, affords any basis for supposing that either a literacy test or an understanding test is free from attack when purposefully chosen to *deny*, not grant voter privileges.

Discrimination against Negroes, on the Government's theory, has not resulted from discriminatory administration of valid laws. It has happened because it was meant to happen. To eradicate this evil, the attack need not be made piece by piece. It may be made by a frontal assault on the whole structure. What the Government is saying is that Mississippi knows that this was the purpose, and now all it wants is for the Court to see what "all others can see and understand,"¹⁰⁶ since there "is no reason [fols. 3191-3197] why [courts] should pretend to be more ignorant or unobserving than the rest of mankind."¹⁰⁷

I therefore respectfully dissent.

¹⁰⁶ Chief Justice Taft in *Bailey v. Drexel Furniture Co.*, 1922, 259 U.S. 20, 37, 42 S.Ct. 449, 66 L.Ed. 817.

¹⁰⁷ *Affiliated Enterprises v. Waller*, 1 Terry 28, 1 Del. 28, 5 A.2d 257, 261.

[fol. 3198] IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF MISSISSIPPI, JACKSON DIVI-
SION

Civil Action Number 3312

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF MISSISSIPPI, ET AL, Defendants

Before CAMERON and BROWN, Circuit Judges, and Cox,
District Judge.

COX, DISTRICT JUDGE, CONCURRING—Filed April 9, 1964

The majority opinion of the Court in this case, prepared by Honorable Ben F. Cameron, United States Circuit Judge, very forcefully and correctly decided this case, and I unconditionally joined in that opinion and in executing the consequent judgment of the Court, but wish to add my concurrence therein as herein expressed.

Initially, and as a fundamental proposition of universal application, the United States had no authority to institute or maintain this suit in the absence of express statutory authorization therefor. That position was readily admitted by counsel at the bar, but it is contended that 42 USCA §1971 expressly provided such necessary authorization for this suit. A careful analysis of that section of the statute will reveal the fallacy of that contention. Indeed, the United States was expressly granted authority to bring certain suits against certain *persons* for preventive relief against violation of certain Civil Rights of others. The state of Mississippi is simply not such a person as was envisioned by that statute. It was not designed, or intended to grant the national sovereign any carte blanche authority [fol. 3199] to arbitrarily and capriciously select any law, or package of laws of a state which it desired invalidated, and to have declaratory relief by a test in such manner of the constitutionality thereof.

The suability of the sovereign state of Mississippi by the United States in this case presents that serious question at the very threshold of this suit. Contrary to the dissent

herein, no question is presented, or relied on by anybody in this case as to any immunity afforded a state by the 11th Amendment to the Federal Constitution. It is perfectly clear in this case that the United States must find express authority in 42 USCA §1971(e) to bring this suit, or it is without authority in this case to sue the state of Mississippi. This Congressional Act very carefully limited the right of the United States to bring a suit under the act against a *person* offending another person by depriving him of a right under the act, and for *preventive* relief. Ordinarily, the term "person" does not include a state or a municipal corporation, unless the statute itself makes the intention to do so very clear. Significantly, the last paragraph of §1971(e) contains its own lexicon. Congress made it clear that the word "vote" meant all things prerequisite to voting, including registration where necessary to vote, and casting the ballot and having it counted. Other well known words and phrases were specifically defined to comply with the legislative intent. The Congress knew that a state is ordinarily not considered a person within the purview of legislation of this character, and it did not deem it proper to carry out the legislative intent to make this act specifically to extend to a sovereign state as a person. This act clearly provides that: "Whenever *any person* has engaged, or there are reasonable grounds to believe that *any person* is about to engage in any act or practice which would [fol. 3200] deprive *any other person* of any right or privilege secured by subsection (a) or (b) of this section," then the Attorney General may institute civil action in the name of the United States for *preventive* relief under this act. Then Congress provided that in such a suit the United States shall be liable for costs *the same as a private person*. The act provides that if a state official has violated either paragraph (a) or paragraph (b) of that section that the state may be made a party to the suit, (not for any relief against it) but as a mere conduit or procedural vehicle to preserve jurisdiction where offending officials have died, or resigned, as happened in the Alabama situation which was met by this provision in the act. But the state of Mississippi is simply not a *person* within any concept of this act, and is not suable in this case. In *Sims v. U.S.*, 359 US 641; 79 S.Ct. 641, it is said that "whether the term

'person' when used in a Federal statute includes a state cannot be abstractly declared, but depends upon its legislative environment, *Ohio v. Helvering*, 292 US 360, 370; 54 S.Ct. 725, 727; *State of Georgia v. Evans*, 316 US 159, 161; 62 S.Ct. 972, 793." In *Monroe v. Pape*, 365 US 167; 81 S.Ct. 473, the Court held that a municipal corporation was not within the ambit of a statute which related to a person who might deprive a citizen of a civil right under 42 USCA §1983. That same rule was followed by the Court in *Egan v. City of Aurora*, 365 US 514; 81 S.Ct. 684, where the Court held that a municipality is not a person within the meaning of said act. Then in *US v. Alabama*, 171 F. Supp. 720, the district court in speaking of the 1957 Civil Rights Act, said that a person did not include or mean a sovereign state. On appeal of that decision in *US v. Alabama*, (5CA) 267 F.2d 808, the Court very strongly reiterated and amplified that same view. The Court in that case said that the state of Alabama was not a person within the purview of the 1957 Civil Rights Act appearing as 42 USCA §1971(c). [fol. 3201] Yet, almost a year later when the present act was amended in 1960, no attempt was made by Congress to make any change in the first two sentences of this act which appeared exactly in the same verbiage as in the 1957 Civil Rights Act.

A statutory intent to authorize the United States to sue a sovereign state is not to be lightly inferred. Such authority must be found in a statute in the very clearest terms before a Federal Court will assume jurisdiction of a sovereign state. In *US v. Alabama*, supra, Judge Hutcheson as chief judge, speaking for the Court at page 811, said: "Absent such specific conferring of jurisdiction, a federal court would not, indeed could not assume jurisdiction over a sovereign state without a precedent determination that, though the jurisdiction had not been expressly conferred, the language of the invoked statute carried the necessary, the unavoidable implication that the congress upon the gravest considerations and after the utmost thought and deliberation had intended to and did confer it."

The State Board of Election Commissioners (composed of the Governor, the State Attorney General and the Secretary of State) are assigned statutory duties in connection

with the preparation of forms of applications which the registrars use in testing the qualifications of an applicant to register to vote. These commissioners are thus acting in a legislative capacity in the discharge of such function and are, therefore, not ordinarily amenable to suit. But their duties have been discharged when they release these forms of applications for use by the registrars in the counties; and the Mississippi State Board of Election Commissioners thereafter have absolutely nothing to do with the registration of voters, or the conduct of any election. The complaint as to the state of Mississippi, and as to said [fol. 3202] State Board of Election Commissioners is, therefore, clearly without any possible merit on its face. The complaint does not aver that the State Board of Election Commissioners have done anything, or threatened to do anything other than prepare those official registration blank forms exactly as directed by the Mississippi Legislature.

The gravamen of this complaint in its entirety is that two sections of the Mississippi Constitution, and six state statutes implementing those constitutional sections are all unconstitutional and void in the opinion of the United States. The acts and laws under attack in this case are Mississippi Constitution 1890, §241-A ¹ and §241 ² and six state statutes

¹ §241-A. In addition to all other qualifications required of a person to be entitled to register for the purpose of becoming a qualified elector, such person shall be of good moral character. The Legislature shall have the power to enforce the provisions of this section by appropriate legislation.

² §244. Every elector shall, in addition to the foregoing qualifications be able to read and write any section of the Constitution of this State and give a reasonable interpretation thereof to the county registrar. He shall demonstrate to the county registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government. The person applying to register shall make a sworn, written application for registration on a form to be prescribed by the state board of election commissioners, exhibiting therein the essential facts and qualifications necessary to show that he is entitled to register

(all referred to herein as statutes) designated as H.B. 900 (Chapter 570, Mississippi Laws 1962),³ H.B. 901 (Chapter

and vote, said application to be entirely written, dated and signed by the applicant in the presence of the county registrar, without assistance or suggestion from any person or memorandum whatever; provided, however, that if the [fol. 3203] applicant is unable to write his application by reason of physical disability, the same, upon his oath of such disability, shall be written at his unassisted dictation by the county registrar. Any new or additional qualifications herein imposed shall not be required of any person who was a duly registered and qualified elector of this state prior to January 1, 1954. The Legislature shall have the power to enforce the provisions of this section by appropriate legislation.

³ §1. Person not to register unless he can read and write. A person shall not be registered unless he be able to read and write any section of the constitution of this state and give a reasonable interpretation thereof to the county registrar. He shall demonstrate to the county registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government; he shall also demonstrate to the county registrar that he is a person of good moral character. The person applying to register shall make a sworn, written application for registration on a form prescribed by the state board of election commissioners, exhibiting therein the essential facts and qualifications necessary to show that he is entitled to register and vote, said application to be entirely written, dated and signed by the applicant in the presence of the county registrar, without assistance or suggestion from any person or memorandum whatsoever; provided, however, that if the applicant is unable to write his application by reason of physical disability, the same, upon his oath of such disability, shall be written at his unassisted dictation by the county registrar. As originally enacted each provision is and it is further declared to be mandatory and not directory; no application should have been and shall not be approved or the applicant declared qualified to register to vote unless all blank spaces in the application and the oath are properly and responsively filled out by the applicant; and

574, Mississippi Laws 1962),⁴ H.B. 905 (Chapter 569, Mississippi Laws 1962),⁵ H.B. 904 (Chapter 573, Mississippi

the oath, as such, shall be signed by the applicant; and the application, as such, shall be signed separately by the applicant at the places thereon provided for applicant's signature. Provided, however, the provisions herein imposed shall not be required of any person who was a duly registered and qualified elector of this state prior to January 1, 1954; except that from and after the effective date of this act no person shall be permitted to register unless he demonstrates to the county registrar that he is of good moral character as required by the provisions of §241-A of the Constitution of Mississippi. §2. Should any provision of this act be held to be unconstitutional or otherwise invalid for any reason, such holding shall not be construed to affect the validity of any other part or portion of this act.

⁴ §1. That Section 3232, Mississippi Code of 1942, Recompiled, be and the same is hereby amended to read as follows: §3232. Form of poll book. The poll book of each election district shall have printed or written at the top of each page words to designate the election district for which it is to be used, and shall be ruled in appropriate columns, with printed or written headings, as follows: Date of registration; name of electors; age; and a number of blank columns for the dates of elections. All who register within four months before any regular election shall be entered on the poll books immediately after such election, and not before, so that the poll books will show only the names of [fol. 3204] those qualified to vote at such election. When election commissioners determine that any elector is disqualified from voting, by reason of being delinquent for poll tax, removal from the precinct, or other cause, that fact shall be noted on the registration book and his name shall be erased from the poll book. After disqualification for delinquency has been removed in subsequent years, the name of such elector shall be reinstated on the poll book without re-registration, and that fact shall be noted in the registration book.

⁵ §1. The state board of election commissioners shall, as soon as practicable and thereafter at such times as it may

[Footnote 5 continued from page 1616]

deem advisable, consistent with the Constitution, prepare a series of application blanks, including the oath of the person offering to register, in compliance with Section 242 of the Constitution of this state, and including blank forms for furnishing of information, showing date of application, which shall be the date of registration if such applicant be approved for registration; name of applicant; age; occupation; where business carried on; if employed, by whom; place of residence; date such residence began; previous place of residence; what oath applicant takes; if more than one person of the same name in precinct, by what name applicant wishes to be called; whether applicant has been convicted, and if so, when and where, of any of the crimes referred to in Section 241 of the Constitution of Mississippi, which are bribery, theft, arson, obtaining money under false pretenses, perjury, forgery, embezzlement and bigamy, and the moral character of applicant; all designed to test the ability of applicants for registration to vote to read and write any section of the Constitution of this state and give a reasonable interpretation thereof, and demonstrate to the county registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government; and to demonstrate to the county registrar that applicant is a person of good moral character as required by Section 241-A of the Constitution of Mississippi. Such applications shall be designed to exhibit the essential facts and qualifications necessary to show that such person is entitled to register and vote. Copies of such application blank forms shall be delivered to the county registrar of each county, and such copies shall be supplied to each county registrar as needed. The oath required by Section 242 of the Constitution shall be administered by the registrar. The board of supervisors is authorized to make proper allowances for office supplies reasonably necessary by this act. If no appeal has been or is taken as provided by law from the ruling of the registrar upon any application for registration, or if any application for registration is abandoned or waived by the applicant therein by making another application for registration before any final judgment or

[Footnote 5 continued on page 1615]

[Footnote 5 continued from page 1617]

decision has been rendered on any prior application, or otherwise waived or abandoned same, the registrar is not required to retain or preserve any record made under the provisions hereof. §2. Registrar to register voters. The registrar shall register on the registration books of the election district of the residence of such person anyone appearing before him, and being, upon examination found, in compliance with Section 244 of the Constitution, as amended, and in compliance with Section 241-A of the Constitution of Mississippi to be entitled to be registered as an elector, upon such person taking and subscribing the [fol. 3205] oath required by Section 242 of the Constitution of Mississippi; but persons who may be entitled to register under the provisions of Section 251 of the Constitution of Mississippi, who would be otherwise disqualified by reason of age, may take the oath as modified by that circumstance, and the subscription of the oath shall be by the elector writing his name in the proper column in the registration book. §3. Form of registration books. The registration books are to be in the following form: They shall have printed at the top of the pages the oath prescribed by Section 242 of the Constitution of Mississippi, and beneath shall be ruled appropriate columns, the headings of which shall be printed respectively, as follows, viz: date of registration; names of electors; age; occupation; where business carried on; if employed, by whom; place of residence in the district; what oath does elector take? If more than one person of same name in district, by what appellation does elector wish to be called? Has the elector met all of the requirements of Section 244 of the Constitution of Mississippi, as amended? Has the elector met all of the requirements of Section 241-A of the Constitution of Mississippi? Signature of elector; remarks. In the column headed "What oath does elector take?" the registrar shall write the word "general," if the elector take the general oath prescribed, the word "minister's," or "minister's wife," if he or she take the oath as modified by the parenthetical sentence thereon; and the words "special as to age," if the elector will, as provided in Section 251 of the Constitution of Mississippi, become of age before the election next after he proposed to

[Footnote 5 continued on page 1619]

[Footnote 5 continued from page 1618]

register; and in the column headed, "Has the elector met, etc.?" if he has met all the requirements of Section 244 of the Constitution, as amended, and Section 241-A of the Constitution of Mississippi, the word "yes" shall be entered. And provided further, that when a new registration is ordered in a county that new registration books shall be purchased to comply with the form prescribed herein. And provided further, that persons registering in any such new registration books who were duly registered and qualified electors of this state prior to January 1, 1954, shall be entitled to register in such new registration books in accordance with the requirements of law in existence on said date; except that all persons registering after the effective date of this act shall be of good moral character as required by Section 241-A of the Constitution of Mississippi. §4. Should any provision or section of this act be held to be unconstitutional or otherwise invalid for any reason, such holding shall not be construed to affect the validity of any other part or portion of this act.

* §1. The sufficiency and the truthfulness of the statements made in the application to register to vote, and the contents thereof, and the good moral character of an applicant to register to vote are material, and this act is adopted to further enforce the requirements to register to vote as set out in the Constitution and laws of the state of Mississippi. §2. Any qualified elector of the county may challenge the good moral character of any applicant and any other requirement of any applicant to vote within fourteen (14) days after the date of the last publication of the name and address of such applicant by filing with the registrar an affidavit in duplicate setting forth facts upon which the challenge is based. Upon the filing of any such challenge the registrar shall within seven (7) days thereafter, exclusive of the date of the filing of such challenge, send to applicant by certified mail, addressed to him at the address shown on the application, one copy of such affidavit, and notice [fol. 3206] of the date, time and place where the registrar will hold an administrative hearing to determine the suffi-

[Footnote 6 continued on page 1620]

[Footnote 6 continued from page 1619]

ciency of the application or challenge. §3. The registrar, who is an administrative officer of the county in which he serves as registrar, is hereby vested with full power and authority to hold and conduct such administrative hearing and render his decision thereon; he may render his decision at the completion of the hearing or may take the matter under advisement just as a court may do. §4. Such hearing shall be held in the office of the registrar or at some other place designated by the registrar in the county courthouse, and shall be set within a reasonable time after the date of the mailing of said notice. If there be two (2) judicial districts in the county, then the hearing shall be had in the courthouse of the judicial district in which the application to register is made. On his own motion or for good cause shown, the registrar may change the date and time of such hearing. At such hearing by the registrar he may hear oral and documentary evidence in support of, in challenge of, or denial of, the sufficiency of the application, the good moral character of the applicant, and as to any other requirement which applicant must meet in order to be qualified to register to vote. §5. The registrar may issue subpoenas to be served by the Sheriff of the county to secure their attendance as witnesses and the production of documents at such hearing. Obedience to any such subpoena may be secured by the registrar by filing with the Circuit Judge, in term time or in vacation, a petition seeking enforcement, and the person subpoenaed shall obey the order of the Circuit Judge made therein. The Circuit Judge, in vacation or in term time, is hereby vested with jurisdiction to hear and determine such petition, make proper orders thereon and issue appropriate process, and said petition shall be heard at such time and place as he may specify on five (5) days' notice to all parties. §6. The registrar shall administer to the witnesses who testify in said administrative hearing the same oath as is used in the trial of cases in the Circuit Court. §7. The registrar shall require all testimony taken before him to be taken down by a competent stenographer or reporter, and a transcript thereof shall be filed with and retained by the registrar as a record of his office. All costs of such proceedings may be taxed by the

[Footnote 6 continued on page 1621]

[Footnote 6 continued from page 1620]

registrar in accord with the manner and practice pertaining to costs in the Chancery Court under the laws of this state. §8. If the decision of the registrar be that the applicant is qualified to register under the Constitution and laws of the state of Mississippi, he shall be forthwith registered; but if the registrar finds that applicant is not qualified under said Constitution and laws to be registered, he shall not register the applicant but shall mark his application "failed;" but if he finds that applicant is not of good moral character he shall so endorse the application and state the facts upon which the finding of lack of good moral character is based. §9. At such hearing held by the registrar, applicant and any person or persons challenging the truthfulness or sufficiency of the application may be represented by counsel, but applicant and any challenger may appear pro se in and on his own behalf if they choose. Witnesses may be examined or cross-examined as in trials in the Circuit Court. §10. An appeal may be taken to the Board of County Election Commissioners by any persons against whom the registrar may decide within the same time and in the same manner as is now provided for an appeal from registration or denial of registration by the registrar. §11. If the applicant or any challenger does not appear at the time and place set by the registrar for the hearing of any challenge, the registrar may, in his discretion, reset the hearing or may proceed and determine whether applicant is or is not, as the case may be, qualified under the Constitution and laws of the state of Mississippi to register to vote. The person or persons against whom the registrar decides may appeal as above provided just as if a hearing had been held. §12. Strict rules of evidence shall not be enforced at the hearing herein provided for. Witnesses may be examined by the applicant or his attorneys, and by the challenger or challengers of their attorneys. §13. The provisions of this act are intended to provide an additional administrative method whereby third parties may challenge the sufficiency of any application to register and the good moral character of an applicant, and are not intended to affect the right, duty and authority of the registrar to determine such qualifications, as now provided by law, if no challenge is made by any third party.

1962),⁷ and H.B. 903 (Chapter 571, Mississippi Laws 1962) *

§1. Within ten (10) days after the receipt by the registrar of any application to register to vote and before consideration is given to the sufficiency of the application, the registrar shall deliver for publication in a newspaper hereinafter described the name and address of such applicant as stated in said application and shall cause same to be published once each week for two (2) consecutive weeks in a newspaper having general circulation in the county where such applicant has applied to register, but if no such newspaper is published in such county, then publication shall be made in some newspaper published in an adjoining or other county but of general circulation in the county of the residence of the applicant. §2. The said name and address shall be published in said newspaper under a heading entitled: "Applicants for registration to vote." When said publication shall have been completed, proper proof of publication shall be furnished to the registrar and same shall be preserved as a record of his office. The cost of the publication and proof thereof shall be paid by the county out of its general fund at the rate for legal notices. §3. If within fourteen (14) days, exclusive of the date of the last publication of the name or names aforesaid, after the date of the last publication, no qualified elector of the county, other than the registrar, shall have challenged, in the manner prescribed by law, the good moral character of applicant and any other requirement which applicant must meet in order to be qualified to register to vote, the registrar shall within a reasonable time, under the circumstances, determine whether applicant has complied with the Constitution and laws of the state of Mississippi to entitle him to register to vote.

* §1. When the registrar shall have determined that an applicant to register to vote has qualified to register under the Constitution and laws of the state of Mississippi, he shall endorse upon the application the word "passed," or a word or words of equivalent meaning, and the applicant shall be entitled to register upon his request for registration made in person to the registrar, or deputy registrar, if a deputy registrar has been appointed. As is now re-

set out in the footnotes for ready access thereto and analysis thereof.

[fol. 3208] The complaint as to the registrar of Amite County, the registrar of Claiborne County, the registrar of Pike County (all within the Southern District of Mississippi, but in different divisions of this district; and against

quired by law, no person other than the registrar or a deputy registrar shall register any applicant. It shall be the responsibility of an applicant for registration to make inquiry of the registrar, or the deputy registrar, if a deputy registrar has been appointed, to determine whether such applicant has passed and is qualified to register. §2. If applicant be of good moral character, but has not otherwise complied with the Constitution and laws of this state to entitle him to vote, then the registrar shall endorse upon the application the word "failed," without specifying the reason or reasons therefor, as so to do may constitute assistance to the applicant on another application. §3. If applicant is otherwise qualified to register, but fails to demonstrate to the registrar that applicant is of good moral character and the registrar so finds, the registrar shall endorse upon the application the words "not of good moral character," and shall state the facts or reasons why he finds applicant not to be of good moral character. §4. If applicant is not otherwise qualified under said Constitution and laws and fails to demonstrate that he is of good moral character, then the registrar shall endorse upon the application the word "failed," and may endorse thereon the words "not of good moral character," but if he endorses the latter on the application he shall state the facts and reasons why he finds applicant not to be of good moral character.

Note: The foregoing footnotes and this opinion refers to the House Bills under attack as set out in the complaint by reference to the Chapter in the Session Laws where they appear and are the same as those referred to as being sections of the Mississippi Code 1942 as contained in the majority opinion. Each section of the Session Acts now appears as a separate section of the Code though such references are to the same laws.

the registrar of Coahoma County, the registrar of LeFlore County and the registrar of Lowndes County, all in different divisions of the Northern District of Mississippi), presents a much more difficult question. Surely, §1971(c) authorized the United States to bring a suit against a registrar for any violation, or any threat of violation of the Civil Rights of a citizen through discrimination against that citizen in any manner, or to any extent by any sort of device however clever or concealed it may be.

[fol. 3209] It must be remembered that this is not a voting case. It is a registration case, but registration is a condition precedent to voting in Mississippi and the United States, as plaintiff, may seek preventive relief against a registrar as a person (as an official, indeed, but not as a private individual) under §1971(c) on the basis that such registrar is doing or is threatening to do something in violation of 42 USCA §1971(a). It is not stated in the complaint that either one of these registrars ever did, or threatened to do anything in violation of that statute, but it is stated that these registrars were literally administering and enforcing, as written, this package of eight laws which this suit was filed to invalidate. Significantly, at the bar, counsel for the government disavowed any intention, or purpose by the suit to charge any discrimination whatsoever in the administration of these statutes by either one of these registrars. But paragraph 5 of the prayer in the original complaint requested the Court to: "Make a finding that the defendant county registrars have deprived negro citizens of the right secured by 42 USCA §1971(a); and that such deprivations have been and are pursuant to a pattern and practice of racial discrimination." Nowhere in the complaint is to be found any charge, or statement of any ultimate fact to the effect that either one of the sections of the Mississippi Constitution (§241-A and §244) or either one of the statutes implementing said sections (Mississippi Laws 1962, Chapters 569, 570, 571, 572, 573 and 574) were wrongfully, or erroneously or discriminatorily applied in any manner to any colored person. The gravamen, and sole basis of the action and claim against these registrars is that they very properly administered and applied these laws which are alleged to be unconstitutional, and that thereby a claim has accrued to the United States. The plaintiff

[fol. 3210] accordingly asserts a demand, not for preventive relief, but for relief which could only be provided by a Mississippi legislative enactment as the opinion in chief sets forth and demonstrates.

Precisely, the claim against these registrars is that they are alleged to be engaged in administering these constitutionally invalid laws. The claim being more specifically that since only 5% of all adult negroes are registered, and since approximately 67% of all adult white citizens are registered, that the disparity and imbalance resulting from such circumstance will necessarily operate with discrimination against negroes. The fallacy of that claim is readily apparent. The law and its application and enforcement with an even hand, and completely without regard to race or color, simply defies any tenable criticism of its constitutional validity.

The case of *Darby v. Daniel*, 168 F. Supp. 170, was a carefully studied and prepared opinion of a three judge court composed of three distinguished Federal jurists from Mississippi. That decision settled the law as to the constitutionality of §244, Mississippi Constitution 1890 and implementing statutes and decided it correctly and no appeal was taken. There, the Court said: "We hold, therefore, that plaintiffs have wholly failed to establish that the amendment to §244 of the Mississippi Constitution of 1890 is void on its face, or because it was the product of base motives. We hold, on the other hand, that said amendment and the statutes passed in connection with it are valid on their face and in fact, are a legitimate exercise by the state of its sovereign right to prescribe and enforce the qualification of voters." That decision is decisive of most of the constitutional questions again presented here.

[fol. 3211] It is suggested that the literacy test in Mississippi is invalid because of the sweep of discretion thereby afforded a registrar in giving a test to an applicant. It will be noted that §244² and the implementing statute³ do not vest a registrar with any naked, unbridled power for arbitrary action on any application. Common sense, honesty, and fair play are the guiding stars of any genuine interpretation such as is contemplated here. In *Yick-Wo v. Hopkins*, 118 US 356, 6 S.Ct. 1064, in referring to this laundry ordinance of the county which was designed to put

the Chinese laundryman out of business, the Court in condemning it said: "The power given to them is not confided to their discretion in the legal sense of that term, but is granted to their mere will. It is purely arbitrary, and acknowledges neither guidance nor restraint." Likewise in *Gomillion v. Lightfoot*, 364 US 339; 81 S.Ct. 125, the Court condemned a state statute which was designed and intended to change the boundary of Tuskegee so as to exclude substantially all negroes from the municipality. The Court said: "The complaint amply alleges the claim of race discrimination. Against this claim the respondents have never suggested, either in their brief or in oral argument, any countervailing municipal function which Act 140 was designed to serve." There is nothing in any statute before this Court which has any such intent, purpose or effect. Section 702, Mississippi Code 1942, captioned: "Rules—how words to be construed: All words and phrases contained in the statutes are used according to their common and ordinary acceptation and meaning; but technical words and phrases according to their technical meaning." The term good moral character requirement for citizenship is not a vague and meaningless term. It must be understood and construed according to the common acceptation of that phrase. It does not mean to define or require prudery or matchless excellence in moral conduct and behavior. It must [fol. 3212] be construed in its context as a requirement and qualification for suffrage that the applicant possess the common accepted standard of the average citizen for good moral character. A negro applicant need not measure up to the standard of the highest class citizen in his community, but the statutory standard would not be met by measuring up to the lowest standard of person who might enjoy the privileges of citizenship. The term does not lend itself readily to precise definition or exact standards. No comprehensive definition of good moral character has ever been attempted by any legislative body or judicial tribunal. Likewise, no court has ever comprehensively defined due process, probable cause, or due care, but down through the ages the courts and juries of this country have resolved thousands of controversies depending upon the meaning of those terms without a suggestion that the laws containing such nebulous terms were themselves invalid because of

lack of standards and guide lines in such laws for the application of such terms. The standard of fairness and reasonableness of an honest person in properly applying such test has been accepted generally by the judiciary as a full compliance with all of the requirements of due process and fair play.

The vagueness doctrine does not condemn the phrase even if it appeared in a criminal statute. Words like "moral turpitude," "good behavior," and other such ambiguous and nebulous phrases have appeared in our statutes for almost a century. The courts have understood them and applied them according to the common understanding and practices with respect thereto. In *Jordan v. DeGeorge*, 341 US 223; 71 S.Ct. 703, it is said: "We have several times held that difficulty in determining whether certain marginal offenses are within the meaning of the language under attack as vague does not automatically render a statute [fol. 3213] constitutional for indefiniteness. *United States v. Wurzbach*, 1930, 280 U.S. 396, 399, 50 S.Ct. 167, 168, 74 L.Ed. 508. Impossible standards of specificity are not required. *United States v. Petrillo*, 1947, 332 U.S. 1, 67 S.Ct. 1538, 91 L.Ed. 1877. The test is whether the language conveys sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices. *Connally v. General Construction Co.*, 1926, 269 U.S. 385, 46 S.Ct. 126, 70 L.Ed. 322."

In *Brukiewicz v. Savoretti*, (5CA) 211 F.2d 541. This Circuit in affirming the findings of the examiner as to the good moral character of a petitioner for naturalization said: "A wide discretion is vested in the trial judge in determining whether or not 'good moral character' exists. It is to be determined as that term is generally understood, but petitioner's character must measure up to that of the average citizen in the community in which he resides before he is entitled to citizenship by naturalization."

In *Roth v. U.S.*, 354 US 476; 77 S.Ct. 1304, the question before the Court was the constitutionality of a criminal obscenity statute said to violate due process because too vague to support conviction for crime. "Many decisions have recognized that these terms of obscenity statutes are not precise. This Court, however, has consistently held that lack of precision is not itself offensive to the requirements

of due process. ***[T]he Constitution does not require impossible standards'; all that is required is that the language 'conveys sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices***' *United States v. Petrillo*, 332 U.S. 1, 7-8, 67 S.Ct. 1538, 1542, 91 L.Ed. 1877. These words, applied according to the proper standard for judging obscenity, already discussed, give adequate warning of the [fol. 3214] conduct proscribed and mark ***boundaries sufficiently distinct for judges and juries fairly to administer the law***. That there may be marginal cases in which it is difficult to determine the side of the line on which a particular fact situation falls is no sufficient reason to hold the language too ambiguous to define a criminal offense***' *Id.*, 332 U.S. at page 7, 67 S.Ct. at page 1542. See also *United States v. Harriss*, 347 U.S. 612, 624, note 15, 74 S.Ct. 808, 815, 98 L.Ed. 989; *Boyce Motor Lines, Inc. v. United States*, 342 U.S. 337, 340, 72 S.Ct. 329, 330, 96 L.Ed. 367; *United States v. Ragen*, 314 U.S. 513, 523-524, 62 S.Ct. 374, 378, 86 L.Ed. 383; *United States v. Wurzbach*, 280 U.S. 396, 50 S.Ct. 167, 74 L.Ed. 508; *Hygrade Provision Co. v. Sherman*, 266 U.S. 497, 45 S.Ct. 141, 69 L.Ed. 402; *Fox v. State of Washington*, 236 U.S. 273, 35 S.Ct. 383, 50 L.Ed. 573; *Nash v. United States*, 229 U.S. 373, 33 S.Ct. 780, 57 L.Ed. 1232."

In *Marie Posusta v. U.S.*, (2CA) 285 F.2d 533, an applicant was denied citizenship for want of good moral character and the Court said: "Much has been written as to scope of that phrase, and, as was inevitable, there has been disagreement as to its meaning. However, it is settled that the test is not the personal moral principles of the individual judge or court before whom the applicant may come; the decision is to be based upon what he or it believes to be the ethical standards current at the time. *United States ex rel. Iorio v. Day*, 2 Cir., 34 F.2d 920, 921; *Repouille v. United States*, 2 Cir., 165 F.2d 152, 153; *United States v. Francioso*, 2 Cir., 164 F.2d 163; *Schmidt v. United States*, 2 Cir., 177 F.2d 450, 451, 452; *Johnson v. United States*, 2 Cir., 186 F.2d 588, 590, 22 A.L.R. 2d 240."

In *Kahm v. U.S.*, (5CA) 300 F.2d 78, in answer to an attack on a statute for vagueness it was said: "Nothing is more common than for a jury in a case involving charges of

negligence, as for example negligent homicide, to determine [fol. 3215] whether the proven conduct measures up to the standards of a reasonably prudent man." *United States v. Levine*, (2CCA) 83 F.2d 156, says: "Thus obscenity is a function of many variables, and the verdict of the jury is not the conclusion of the syllogism of which they are to find only the minor premise, but really a small bit of legislation ad hoc, like the standard care."

In *Gundling v. Chicago*, 177 US 183; 20 S.Ct. 633, 635, an ordinance of the city of Chicago submitted to the mayor the question of the fitness of a party to have a license to sell cigarettes. This question was submitted for the exercise of discretion of a judicial nature. No standards are contained in the ordinance to guide the mayor in his decision. The Court in upholding that ordinance against Federal attack said: "Regulations respecting the pursuit of a lawful trade or business are of very frequent occurrence in the various cities of the country, and what such regulations shall be and to what particular trade, business or occupation they shall apply, are questions for the state to determine, and their determination comes within the proper exercise of the police power by the state, and unless the regulations are so utterly unreasonable and extravagant in their nature and purpose that the property and personal rights of the citizens are unnecessarily, and in a manner wholly arbitrary, interfered with or destroyed without due process of law, they do not extend beyond the power of the state to pass, and they form no subject for Federal interference. As stated in *Crowley v. Christensen*, 137 US 86; 11 S.Ct. 13, 'the possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community.' Whether there is [fol. 3216] or is not a delegation of power by the common council to the mayor, is not in this case a Federal question. We have no doubt that the ordinance, so far as the objection above considered is concerned, was clearly within the power of the state to authorize, and must be obeyed accordingly." Again in *Breedlove v. Suttles*, 58 S.Ct. 205; 302 US 277, "The privilege of voting is not derived from the United States, but is conferred by the state and, save

as restrained by the 15th and 19th Amendments and other provisions of the Federal Constitution, the state may condition suffrage as it deems appropriate."

It has been repeatedly held that a state may properly require a literacy test as a condition precedent to suffrage. It is significant that in paragraph (e) of this same 42 USCA §1971 in the fourth unnumbered paragraph of that subparagraph, provision is made for a literacy test wherein the act provides: "Where proof of literacy or an understanding of other subjects is required by valid provisions of state law, the answer of the applicant, if written, shall be included in such report to the Court; if oral, it shall be taken down stenographically and a transcript included in such report to the Court." The United States cannot reconcile its complaint in this case with the announcement of the Supreme Court of the United States in *Minor v. Happersett*, 88 US 627; 21 Wall. 152, which held: "The United States has no voters in the states of its own creation. The constitution of the United States does not confer the right of suffrage upon anyone." The sole function of the United States in this voting area is to prevent discriminations under the 14th, 15th and 19th Amendments, but the general prerogative of a state is to condition suffrage as it sees fit. Mississippi has seen fit and deemed it proper to require a voter (regardless of his color, race or origin) to be possessed of good moral character. That [fol. 3217] requirement was inserted in the organic law of the state by its insertion in §241-A of the state constitution. It is complained that the term good moral character is not defined, and that no guide lines are supplied for its application, and that it is, therefore, a mere naked power subject to the capricious will of some irresponsible registrar. An examination of Chapter 573, Mississippi Laws 1962,* will demonstrate to anybody that arbitrary action in the application of such test as to good moral character cannot exist in any administration of such law. A full hearing is provided for. The entire hearing must be recorded by a reporter. Quick and inexpensive appeal procedure is written into this act in addition to the general sections for appeals from the administrative rulings of the registrar. His rulings have no finality or conclusive-

ness and has no binding effect upon the election commissioners, or upon the circuit court on the second successive appeal.

Chapter 569, Mississippi Laws 1962² is next assailed as being unconstitutional as being in conflict with 42 USCA §1974 which requires a registrar to preserve and retain certain records and papers coming into his possession relating to the registration processes for a period of twenty-two months. Section 1974 of that volume makes it a crime punishable by a fine and imprisonment for the destruction, concealment, mutilation or alteration of any such records. The pertinent part of the Mississippi act assailed provides that when no appeal has been taken by an applicant from a ruling of the registrar upon his application or when his application is waived or abandoned by making another application for registration before final judgment or decision is rendered on any prior application, then *"the registrar is not required to retain or preserve any record made under the provisions hereof."* Clearly, the state act does not require a destruction of such records but provides that they [fol. 3218] need not be kept for any state purpose. The Federal act simply intervenes and supersedes and overrides the state enactment to require the preservation of such records even under those circumstances for twenty-two months after an election to enable the Attorney General of the United States to investigate such records within said time after an election to determine and resolve any question therefrom relating to that election. The constitutionality of that state enactment under such circumstances cannot be gainsaid.

Actually, a suit against a registrar is basically a local action. It cannot be treated as in this case as a joint and several action against these six defendant county registrars for their entirely separate and distinct and disconnected activities done in the performance of their duties done solely in their respective counties. That is necessarily so in this case where no registrar in one of the counties has ever done any official act in any other county and could not legally do so. But if any fallacy in law exists in that observation, then every registrar in each of the eighty-four counties in this state would be necessary and indispensable parties to this suit, and for lack of jurisdiction of anyone

of whom, this Court could not proceed in their absence under Civil Rule 19.

This is not a diversity suit, and under the general venue statutes in this Court an action which is local in nature can be instituted only in the district of the residence of the defendant. The important considerations here, however, lie in the fact that the complaint nowhere charges that anyone of these registrars ever wrongfully did anything to deprive any negro of the right to register to vote in Mississippi. This is not a case wherein relief is sought [fol. 3219] against a registrar for discrimination. These registrars are charged with having applied the election laws of this sovereign state with an even hand to all citizens alike. It does not state a right of action of any kind against either one of these registrars. We are, therefore, undeniably faced with a complaint which fails to state a claim upon which any relief can be granted.

It is the clear and positive duty of the Court to consider and act upon motions like these before the Court in this case in limine to forestall any unnecessary delay or expense in protracted litigation. That is the unmistakable teaching of such cases as *Flanders v. Coleman*, 250 US 223, 228; 39 S.Ct. 472; *Kvos v. Associated Press*, 299 US 269, 278; 57 S.Ct. 197; *Rhode Island v. Mass.*, 12 Peters (31 US) 657, 718; *Walmac Co. v. Issacs*, (1CA) 220 F.2d 108, 111; *Battaglia v. General Motors Corp.*, (2CA) 169 F.2d 254, 256, cert. denied 355 US 887. This Court in its exercise of a sound judicial discretion received and considered the motions of the defendants for lack of jurisdiction and for failure to state a claim against the defendants upon which relief could be granted, as provided by Civil Rule 12(b), and properly sustained those motions for the reasons indicated when it became perfectly apparent to the Court that there was no possible substance in the complaint.

Civil Rule 8(a) requires a complaint to set forth "a short and plain statement of the claim showing that the pleader is entitled to relief" and "a demand for judgment for the relief to which he deems himself entitled." That rule permits the full application of the Notice Pleading Doctrine to any complaint filed under this rule in a Federal Court. Nevertheless, a pleader must state enough of the ultimate facts and circumstances relied upon to give the adversary

some reasonable notice under the rules of fair play [fol. 3220] to apprise him of the claim asserted against him. Mere conclusions of the pleader without some ultimate factual basis, and bare statistics without some casual connection assigned thereto other than shallow insinuations or unsupported inferences does not satisfy the Rule 8(a) requirement for a short and plain statement of the claim. The complaint contains thirty-five legal cap pages, arranged in seventy paragraphs, so it is not short and is equally and as certainly not plain. The Court in *Maguire v. Todd*, (5CA) (1952) 198 F.2d 60, affirmed a dismissal of a Civil Rights suit by the trial court for such infirmity and lack of substance as here. Cf: *Haley v. Childers*, (8CA) 314 F.2d 610, 613, where it is said: "But a mere conclusion of law or, as here, a naked conclusory allegation that a bargaining contract violates a Federal statute, has no efficacy and is wholly insufficient to confer jurisdiction upon the Federal Court where such allegation is unwarranted by the asserted facts and is contradictory to well pleaded facts." Stripped of such conclusions and deductions of the pleader, the complaint in this case simply seeks a declaratory judgment to have this court declare that two sections of the Mississippi Constitution 1890, and six statutes enacted in 1962 to implement those constitutional provisions as being invalid. United States counsel at the bar readily admitted in questions from the bench that discrimination was not involved in this suit; that the plaintiff relied upon §1971(c) as its sole authority for this suit, and that there was no authority for this suit unless expressly found in that act. There is an absolute dearth of any notice to be found anywhere in this complaint that any one of the defendants ever violated §1971(a), except by enforcing those state laws exactly as written. Attacks on those laws constituting the backbone of the entire election [fol. 3221] machinery of this state are predicated upon alleged constitutional weaknesses and infirmities in such laws themselves. It is not asserted that the state of Mississippi as a sovereign entity ever did anything to or against any citizen in the execution of such laws. Similarly, it is not asserted that the State Election Commissioners (composed of the Governor, Secretary of State and Attorney General) ever did anything other than prepare the form

of application for use of the applicants to register, and it is not asserted that their legislative action was not performed exactly as directed by the Legislature (Chapter 569, Laws 1962).⁵ Likewise, it is not asserted that any one of the six county registrars in this suit ever did anything, or threatened to do anything other than administer those laws exactly as written.

A state has the right to declare all of the qualifications for voting within the state. The Federal government has no power or authority whatever in this field, except to prevent any discrimination among voters and any denial of the right of any citizen to vote on account of his race or color. Any extension of such power or authority of the Federal government would be an usurpation of state authority and an encroachment upon its sovereign domain. "The privilege to vote in a state is within the jurisdiction of the state itself, to be exercised as the state may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals, in violation of the Federal Constitution. The question whether the conditions prescribed by the state might be regarded by others as reasonable or unreasonable is not a Federal one." *Pope v. Williams*, 193 US 621; 24 S.Ct. 573. Speaking of the 15th Amendment, the Court in *Guinn & Beal v. U.S.*, 238 US 347; 35 S.Ct. 926, 930, the Court said: "Beyond doubt the Amendment does not take away from the state [fol. 3222] governments in a general sense the power over suffrage which has belonged to those governments from the beginning, and without the possession of which power the whole fabric upon which the division of state and national authority under the Constitution and the organization of both governments rest would be without support, and both the authority of the nation and the state would fall to the ground. In fact, the very command of the Amendment recognizes the possession of the general power by the state, since the Amendment seeks to regulate its exercise as to the particular subject with which it deals."

The United States answered interrogatories propounded by the defendants and took some depositions out of which the gossipy and irrelevant material found in the last half of the dissenting opinion herein was lifted. This material came from the thesis of a political science student at Ole

Miss who was writing for his Master's Degree, probably with no thought of playing such an important and prominent role in a court opinion. It is my firm conception of the law that statements subsequently or even precedently made by a member of a constitutional convention as to its purpose and intent could have no possible legal effect upon the validity of the convention product. What some state Supreme Court judge said in a book on the Mississippi Constitution as to the problems before the convention and its solution of the race problem in the state, certainly could not claim relevancy for its production.

The meaning, intent and purpose of an unambiguous act must be obtained from the act itself and not from the expressions of legislators or their committees. *Marche v. United States*, (5CCA) 126 F.2d 671. *United States v. Ogilvie Hardware Company*, (5CCA) 155 F.2d 577. It is never permissible to allow the discussions and views of legislators, [fol. 3223] friendly or unfriendly to such legislation, to disparage the validity of the ultimate work product of the legislative body. Any such impeachment in such manner of an unambiguous enactment would violate every principal of estoppel. The speeches of a legislator and the discussions of an enactment in committee, or even explanations of a witness before the committee as to the meaning, or intention or purpose of a statute is universally considered a very poor and impoverished source on which to rely to glean the legislative intent. A legislative body is presumed to say what it means, and to mean what it says. It is not within the province of any legislator or member of a constitutional convention to disparage the validity of an enactment of such legislative body by materials of such source. That does not mean to say that a Court should close its eyes and ears to facts and circumstances surrounding an enactment when clarity of expression makes it necessary to resort to extraneous evidence to determine the meaning and intent of an ambiguous statute, or constitutional section. But there is nothing hidden, or concealed or built-in to either of these statutes which would affect its validity. These statutes and constitutional sections here contain nothing invidious, or insidious, as in *Gomillion*, and in *Yick Wo*, so strongly relied on in the dissent. These election statutes are paragons of equity of treatment of all citizens of both races alike.

According to the universal rule of statutory construction, there is the very strongest presumption in favor of the validity of each of these statutes. It is a strange philosophy which seizes upon every charge of discrimination and every claim of unconstitutionality in a statute as affording an opportunity if not an open invitation to invalidate such statute rather than sustain it. That presumption of validity [fol. 3224] must attend every statute throughout the trial of any case and be overcome only by the clearest and most convincing evidence to the contrary. In this case we are met with the extremely tenuous claim that these statutes in this case were bred and born in an atmosphere of inequity and invalidity and such evils inhere therein to invalidate them regardless of the fairness and impartiality with which such laws function and are administered. In *Fleming v. A. H. Belo Corporation*, (5CCA) 121 F.2d 207, in speaking of Congressional debates as reflecting upon the intent of Congress in an enactment, it is said: "It is just because of this fact, that legislation is compromise, that the view of the proponents and of the opponents, as to the purposes and effect of the legislative act, are never regarded as of value in a construction of it, and that it is settled law that statutes must be construed in accordance with the intent of the legislature as expressed in the language of the act as a whole. Its meaning may not be sought by the courts in the vague penumbrae of the wishes and desires of its proponents or its opponents as these are expressed in debates."

In *U.S. v. Trans-Missouri Freight Ass'n.*, 166 US 290, 17 S.Ct. 540, 550, the Court said: "That is, too, a general acquiescence in the doctrine that debates in congress are not appropriate sources of information from which to discover the meaning of the language of a statute passed by that body. *U.S. v. Union Pac R. Co.*, 91 U.S. 72, at page 79; *Aldridge v. Williams*, 3 How. 9-24; *Taney, C. J.*; *Mitchell v. Manufacturing Co.*, 2 Story, 648, at page 653, *Fed. Cas. No. 9,662*; *Reg. v. Hertford College*, 3 G.B. Div. 693, at page 707. The reason is that it is impossible to determine with [fol. 3225] certainty what construction was put upon an act by the members of a legislative body that passed it by resorting to the speeches of individual members thereof. Those who did not speak may not have agreed with those who did, and those who spoke might differ from each other;

the result being that the only proper way to construe a legislative act is from the language used in the act, and, upon occasion, by a resort to the history of the times when it was passed."

Section 244, Mississippi Constitution 1890 was before the United States Supreme Court in 1898 in *Williams v. State of Mississippi*, 170 US 213; 18 S.Ct. 583, where it was complained that this 1890 convention by this §244 discriminated against the characteristics and the offenses to which negro members are prone; and that the section contained no standards for use by the registrar in applying his test to a citizen desiring to register to vote and that such discretion was thus unlimited and unreasonable and invalid. Yet, the Federal Supreme Court said that the Mississippi Constitution and laws passed pursuant thereto prescribing the qualifications of the voter and investing administrative officers with a large but sound discretion in determining what citizens have the necessary qualifications, cannot be held repugnant to the 14th Amendment merely on a showing that they operate as a discrimination against the colored race. As the complaint states [paragraph 50(b)] that §241-A, providing the good moral character requirement provided "an additional device with which registrars could discriminate against negro citizens who seek to register to vote." Such an averment is merely a suggestion of a possibility and nothing more which was discarded by the Court as ineffectual in *Williams v. State of Mississippi*, supra, to assail the validity of an act. Unless all of these eight state [fol. 3226] laws are facially invalid, the entire suit must fail. Environment of a legislative body, even an evil intent of its membership and an unlawful purpose cannot serve to invalidate its legislation because thereof. It is not contended or even suggested that all unregistered white people who apply for registration do not have to comply with all of the requirements of this entire package of laws and satisfy and demonstrate to the registrar that they possess all of the qualifications and none of the disqualifications to register to vote. The fact that such laws may discommode or inconvenience a negro citizen or even work a hardship upon him to comply with such requirements to entitle him to register to vote, does not precept any constitutional infirmity in such laws. The sovereign state of

Mississippi has the right to declare the qualifications of its citizens to register to vote, and every one of the qualifications in this state therefor have been repeatedly approved as valid. Substantially all requirements of the state of Mississippi for registration to vote have been uniformly approved without exception. *United States v. Atkins*, (5CA) 323 F.2d 733; *Trudeau v. Barnes*, (5CCA) 65 F.2d 563; cert. denied 290 US 659; *Lassiter v. Northhampton County Board of Elections*, 360 US 45; 79 S.Ct. 985.

This is not a school case. It is not a public accommodations case. These collateral questions may not be desperately drawn in to this case to confuse the sharp and clear issues as to the validity vel non of these Mississippi election laws. Statistics are resorted to frequently by those advocates who find themselves without substantial factual support in the genuine issues at hand. Here, much is made in the complaint and in the dissent about only 5% of the [fol. 3227] adult negro citizens being registered while 67% of the adult white citizens are registered. This Court judicially knows that negroes never manifested any substantial interest in registering or voting in Mississippi prior to a direct appeal to them from President Kennedy to do so. The weakness of such statistics is more apparent when it is realized that the complaint in this case does not undertake to link the registrars with any responsibility therefor and actually assigns no causal reason therefor; doubtless because it could not be truthfully said and certified that very many qualified negro citizens (possessing all of the qualifications and none of the disqualifications) had applied to some registrar to register and had been rejected. Surely, a qualified colored citizen who did not care to register and had never bothered about voting, could not expect to find his name on a registration roll unless he had exerted himself to do the necessary to put it there.

Since the registrars are thus parties to this suit instituted for the sole purpose of having these eight laws in a package declared unconstitutional, and since this case, therefore, does not involve an instance where anyone of these registrars has done anything to wrongfully deny any negro the right to register to vote in his county, it must follow that this Court has no jurisdiction of the sovereign state, and that the complaint fails to state a claim against the other

defendants upon which relief can be granted. If this suit were not an attack on the validity of these election laws, but only an attack on the enforcement thereof by these registrars, it would not be a three judge case as it is. It is said in *Sealy v. Department of Public Instruction of Penn., et al.*, (3CA) 252 F.2d 898; cert. denied 78 S.Ct. 1139, "*Here attack on regulations or method of enforcement of* [fol. 3228] *a statute is not sufficient to justify the interposition of a three-judge court.* Ex parte Bransford, 1939, 310 U.S. 354, 60 S.Ct. 947, 84 L.Ed. 1249, William Jameson & Co. v. Morgenthau, 1938, 307 U.S. 171, 59 S.Ct. 804, 83

The election machinery in this state contains every constitutional safeguard against any possible invalidity, including that of due process. Under §3217-03, Mississippi Code 1942, the registrar "who is an administrative officer of the county in which he serves as registrar" is vested with the full power and authority to conduct administrative hearings and render his decision upon any application to register at the time or he may take the matter under advisement as a court may do. Under §3217-04, Mississippi Code 1942, provision is made for hearings in the county on such applications to register. He may issue subpoenas for witnesses under §3217-05. Section 3217-07, Mississippi Code 1942, requires the registrar to have all testimony taken before him to be taken down by a competent reporter and a transcript thereof filed with and retained by him in his office. Section 3217-09, Mississippi Code 1942, provides that an applicant may appear in person or by counsel at such a hearing and may examine or cross-examine witnesses as in the circuit court. Section 3217-10, Mississippi Code 1942, provides for an appeal from any decision of the registrar to the Board of County Elections Commissioners. A general section of the Code provides for a further appeal to the circuit court and even to the Supreme Court of the state. Chapter 573, Mississippi Laws 1962 provides for an appeal to the circuit judge in term time or in vacation on the good/moral character requirement of the act. Liberal provision for hearings and quick decisions [fol. 3229] on appeals differentiate this entire election system from others which have been condemned because a registrar's acts were unlimited as to discretion and con-

tained naked powers for arbitrary and capricious actions which were final and conclusive.

These Mississippi election laws at bar fairly demonstrate upon their face the recognition and application of all of the rules of fair play and impartial treatment of all citizens of both races alike. The majority opinion and ensuing judgment in this case in its entirety is irrefragably correct and I concur therein.

William Harold Cox, United States District Judge.

[fol. 3230] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action No. 3312

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF MISSISSIPPI, ET AL, Defendants

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED
STATES—Filed April 10, 1964

I. Notice is hereby given that the United States of America, the plaintiff above named, hereby appeals to the Supreme Court of the United States from the final order dismissing the complaint entered in this action on March 6, 1964.

This appeal is taken pursuant to 29 U.S.C. 1253.

II. The Clerk will please prepare a transcript of record in this cause for transmission to the Clerk of the Supreme Court of the United States and include in said transcript the entire record below including all pleadings, motions, depositions, answers to interrogatories, transcripts of arguments, orders of the District Court, opinions of the District Court and this notice of appeal.

III. The following questions are presented by this appeal:

[fol. 3231] 1. Whether the complaint states a claim upon which relief could be granted.

2. Whether the defendant State of Mississippi is a proper party to this proceeding.

3. Whether the defendant State Board of Election Commissioners is a proper party to this proceeding.

4. Whether the defendants H. K. Whittington, Pauline Easley, J. W. Smith, Martha Turner Lamb, T. E. Wiggins and Wendell R. Holmes are proper parties to the proceeding.

5. Whether the United States is authorized to bring suit to declare invalid and enjoin the enforcement of State constitutional and statutory provisions as in violation of the Constitution and laws of the United States of America.

[fol. 3232] 6. Whether Sections 244 and 241A of the Mississippi Constitution, so much of Section 3209.6, Mississippi Code as permits the destruction of voting records, and House Bills 900, 903, 822 and 904 adopted in 1962 are invalid as in violation of the Fourteenth and Fifteenth Amendments to the United States Constitution and the Civil Rights Acts of 1957 and 1960.

• /s/ Burke Marshall, Assistant Attorney General.
/s/ Robert E. Hauberg, United States Attorney.
/s/ John Doar, /s/ Harold H. Greene, /s/ Howard
A Glickstein, Attorneys, Department of Justice,
Washington, D. C. 20530

[fol. 3233] Certificate of Service omitted in printing.

[fol. 3234] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action No. 3312

[Title omitted]

MOTION FOR ORDER TO TRANSMIT ORIGINAL RECORD TO THE
SUPREME COURT OF THE UNITED STATES—Filed April 10,
1964

Plaintiff in this cause hereby respectfully moves this Court to enter an order directing the original record, including all pleadings, motions, depositions, answers to interrogatories, transcripts of arguments, orders of the District Court and opinions of the District Court, to be transmitted to the Supreme Court in lieu of copies.

As reasons for this motion, plaintiff shows as follows:

1. Plaintiff has noted an appeal from the order entered on March 6, 1964, and has designated the entire record for transmission to the Supreme Court. The record is voluminous, and preparation of copies would be time-consuming and would entail considerable effort and expense.

2. Plaintiff intends to take all steps necessary to expedite the hearing of this case in the Supreme Court. Because this case involves the fundamental right to vote, the issues should be resolved by that Court as quickly as possible.

[fol. 3235] 3. Under Rule 12(4) of the Revised Rules of the Supreme Court, the original papers may be inspected by the Supreme Court in lieu of copies if the presiding judge deems such inspection "necessary or proper." For reasons herein before stated, such inspection is "necessary" and "proper."

/s/ Burke Marshall, Assistant Attorney General.
/s/ Robert E. Hauberg, United States Attorney.
/s/ John Doar, /s/ Harold H. Greene, /s/ Howard
A. Glickstein, Attorneys, Department of Justice,
Washington, D. C. 20530

[fol. 3236] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI, JACKSON DIVISION

Civil Action No. 3312

[Title Omitted]

ORDER DIRECTING TRANSMITTAL OF ORIGINAL RECORD—April
10, 1964

Plaintiff having designated the entire record in this case for use on appeal, and having filed with the Court a motion for an order directing that the original record be transmitted to the Supreme Court in lieu of copies, and it appearing to the Court that transmission of the original papers will avoid unnecessary expenses and expenditure of time, the Clerk is hereby directed to transmit the original record, including all pleadings, motions, depositions, answers to interrogatories, transcripts of arguments, orders of the District Court and opinions of the District Court, to the Supreme Court in lieu of copies, such original record to be returned to this Court after disposition of the appeal.

Ordered and adjudged this 10th day of April, A.D., 1964.

Harold Cox, United States District Judge.

[fol. 3237] Certificate of service, omitted in printing.

[fol. 3238] SUPREME COURT OF THE UNITED STATES,
OCTOBER TERM, 1963

No. 1097 .

— UNITED STATES, Appellant,

vs.

MISSISSIPPI, ET AL.

ORDER NOTING PROBABLE JURISDICTION—June 22, 1964

Appeal from the United States District Court for the
Southern District of Mississippi. ?

The statement of jurisdiction in this case having been
submitted and considered by the Court, probable jurisdic-
tion is noted and the case is set for oral argument immedi-
ately following No. 1073.